Journal of the Senate

Number 21 **Friday, May 5, 1995**

CALL TO ORDER

The Senate was called to order by the President at 9:00 a.m. A quorum present—40:

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Excused: Senators Diaz-Balart, Beard, Dantzler, Casas, Childers, Hargrett, Harris, Dudley, Horne, Jenne, Kirkpatrick, Sullivan, Williams, Myers, Bankhead, Gutman, Kurth, Ostalkiewicz, Thomas, Crist, Burt, Jones, Latvala, Silver and Weinstein, periodically for the purpose of working on Appropriations

PRAYER

The following prayer was offered by Dr. J. Douglas Dortch, Jr., Pastor, First Baptist Church, Tallahassee:

Almighty and everlasting God, creator, sustainer, all-sufficient source of inspiration and encouragement, our help in ages past, our hope for years to come, we pause at the beginning of this day to acknowledge your majesty, your dominion and your power. You alone are worthy of honor, and we affirm your supremacy in all areas of our existence.

We ask this day that you would forgive us of whatever pride, arrogance, or self-centeredness we may have shown in the course of discharging our duties. We confess that we are not always the people you would have us to be, but we pray that by your grace we may become more pure in our aims and more honorable in our purposes. So, thank you for the opportunity that is ours to further the causes of righteousness and justice in our state and nation.

Thank you for the joy that comes through service and for the blessings we gain from doing good. Watch over our proceedings this day and every day. Give us patience and wisdom and kindness and courage Make us all that our constituents need us to be and, more importantly, all that you would have us to be. Direct all our energies and efforts in ways that would be pleasing in your sight.

This prayer we offer in your name and for our sakes. Amen.

PLEDGE

Senate Pages, Lee Hudgins of Tallahassee and Betsy Remington of Shalimar, 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—

SCR 820—A concurrent resolution recognizing Florida State University, the University of Florida, and the University of Miami for outstanding contributions to the state through football.

WHEREAS, during the 1994 collegiate football season, Florida State University, the University of Florida, and the University of Miami brought great honor and prestige to the state, nationally and internationally, and

WHEREAS, Florida State University, with a perfect record within its conference, won the Atlantic Coast Conference Championship, and

WHEREAS, the University of Miami, also with a perfect record within its conference, won the Big East Conference Championship, and

WHEREAS, the University of Florida, with only one conference loss, won the Southeastern Conference Championship, and

WHEREAS, it may well be unprecedented that the champions of three major intercollegiate athletic conferences have all been produced by a single state in the same year, and

WHEREAS, the national exposure of the athletic accomplishments of each of these universities operates to the benefit of the entire state as the stature of its academic institutions and its economy are greatly enhanced, and

WHEREAS, it is fitting and appropriate to recognize Florida State University, the University of Florida, and the University of Miami for their outstanding achievements and contributions to the state through the national exposure of successful football programs, NOW, THEREFORE,

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

That the Legislature hereby commends Florida State University, the University of Florida, and the University of Miami for winning their respective conference titles in the 1994 collegiate football arena and hereby expresses its appreciation for the great honor that their accomplishments on the field of play have bestowed on the State of Florida by bringing well-deserved recognition and economic benefit to the state.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to Florida State University, the University of Florida, and the University of Miami as a tangible token of the sentiments expressed herein.

—was taken up out of order and by two-thirds vote read the second time in full. On motion by Senator Silver, **SCR 820** was adopted and certified to the House.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Diaz-Balart, by two-thirds vote **SB 222**, **SB 652**, **CS for SB 992**, **CS for SB 2876** and **HB 1133** were withdrawn from the Committee on Ways and Means.

On motion by Senator Diaz-Balart, by two-thirds vote **SB 652** was referred to the Committee on Ways and Means.

On motion by Senator Diaz-Balart, by two-thirds vote **SB 1716** and **SB 1718** were withdrawn from the Committee on Ways and Means.

On motion by Senator Jennings, by two-thirds vote **SB 702** was withdrawn from the Committees on Community Affairs; and Ways and Means; **CS for SB 2696** was withdrawn from the Committees on Governmental Reform and Oversight; and Ways and Means; **HB 269** was withdrawn from the Committee on Regulated Industries; **HB 813** was withdrawn from the Committee on Health Care; **HB 889**, **HB 891** and **HB 2333** were withdrawn from the Committee on Commerce and Economic Opportunities; and **HB 2701** was withdrawn from the Committee on Governmental Reform and Oversight.

On motion by Senator Diaz-Balart, by two-thirds vote **SB 564**, **CS for SB 656**, **SB 668**, **SB 2754**, **CS for SB 2834** and **SB 2888** were withdrawn from the Committee on Ways and Means.

On motion by Senator Jennings, by two-thirds vote **CS for SB's 716 and 1686** was withdrawn from the Committee on Judiciary.

On motion by Senator Jenne, by two-thirds vote **SB 2388** and **HB 2311** were withdrawn from the Committee on Ways and Means.

On motion by Senator Diaz-Balart, by two-thirds vote **SB 1650** and **SB 2454** were withdrawn from the Committee on Ways and Means.

On motion by Senator Diaz-Balart, by two-thirds vote **SB 1550** was withdrawn from the Committee on Ways and Means.

On motion by Senator Jennings, by two-thirds vote **CS for CS for HB 379** and **CS for HB 395** were withdrawn from the Committees on Education; and Ways and Means; **HB 343** was withdrawn from the Committee on Ways and Means; **HB 2311** was withdrawn from the Committee on Judiciary; **CS for CS for HB 1317** and **HB 2689** were withdrawn from the Committees on Natural Resources; Commerce and Economic Opportunities; and Ways and Means; and **CS for CS for CS for HB 2615** was withdrawn from the Committees on Commerce and Economic Opportunities; Community Affairs; and Ways and Means.

On motion by Senator Jennings, by two-thirds vote **SB 2908** was withdrawn from the Committee on Governmental Reform and Oversight; and **HB 571** was withdrawn from the Committees on Criminal Justice; and Ways and Means.

MOTIONS

On motion by Senator Jennings, by two-thirds vote all bills remaining on the Special Order Calendar Thursday, May 4 were established as the Special Order Calendar for this day.

On motion by Senator Jennings, by two-thirds vote the following bills were established as the Claim Bill Calendar this day: **SB 264, SB 1736, SB 1744, SB 2988, CS for HB 481, CS for HB 1397, CS for SB 830, CS for SB 990, CS for SB 2436, SB 352, SB 660, SB 1056, SB 1430** and **CS for HB 455.**

EXECUTIVE BUSINESS

The Honorable James A. Scott May 5, 1995
President, The Florida Senate

Dear Mr. President:

The executive appointment of the following appointee was 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.

Office and Appointment	*For Term Ending*
Secretary of Health and Rehabilitative Serivces	
Appointee: Towey, H. James	Pleasure of Governor

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 appointee for appointment to the office 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 the appointee.

After due consideration of the findings of such inquiry and the evidence adduced at the public hearing, the committee respectfully advises and recommends that, in accordance with s. 114.05(1)(d), Florida Statutes, the Senate vote to refuse to confirm the appointment of the above-named appointee prior to adjournment of the 1995 Regular Session; and there is no necessity known to the committee for the deliberations on the appointment to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

The President put the question: "Shall the Senate confirm or refuse to confirm the appointment of H. James Towey, as Secretary of the Department of Health and Rehabilitative Services?" A vote 'yes' will be to confirm the secretary; a vote 'no' will be a vote to refuse to confirm the secretary.

The vote on the question was:

Yeas—18 Nays—22

The Senate refused to confirm the appointment.

The Honorable James A. Scott May 5, 1995
President, The Florida Senate

Dear Mr. President:

The following executive appointment was 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:

Office and Appointment	*For Term Ending*
Secretary of Transportation	
Appointee: Watts, Ben G.	Pleasure of Governor

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 appointee for appointment to the office 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 the 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 appointment of the above-named appointee, to the office and for the term indicated, be *confirmed* by the Senate.

(2) Senate action on said appointment be taken prior to the adjournment of the 1995 Regular Session.

(3) there is no necessity known to the committee for the deliberations on said appointment to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

The Honorable James A. Scott May 5, 1995
President, The Florida Senate

Dear Mr. President:

The following executive appointment was 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:

Office and Appointment	*For Term Ending*
Secretary of Business and Professional Regulation	
Appointee: Farrell, Richard Thomas	Pleasure of Governor

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 appointee for appointment to the office 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 the 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 appointment of the above-named appointee, to the office and for the term indicated, be *confirmed* by the Senate.

(2) Senate action on said appointment be taken prior to the adjournment of the 1995 Regular Session.

(3) there is no necessity known to the committee for the deliberations on said appointment to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

The Honorable James A. Scott May 5, 1995
President, The Florida Senate

Dear Mr. President:

The following executive appointment was 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:

Office and Appointment	*For Term Ending*
Secretary of Environmental Protection Appointee: Wetherell, Virginia B.	Pleasure of Governor

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 appointee for appointment to the office 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 the 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 appointment of the above-named appointee, to the office and for the term indicated, be *confirmed* by the Senate.

(2) Senate action on said appointment be taken prior to the adjournment of the 1995 Regular Session.

(3) there is no necessity known to the committee for the deliberations on said appointment to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

The Honorable James A. Scott May 5, 1995
President, The Florida Senate

Dear Mr. President:

The following executive appointment was 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:

Office and Appointment	*For Term Ending*
Secretary of Commerce Appointee: Dusseau, Charles Michael	Pleasure of Governor

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 appointee for appointment to the office 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 the 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 appointment of the above-named appointee, to the office and for the term indicated, be *confirmed* by the Senate.

(2) Senate action on said appointment be taken prior to the adjournment of the 1995 Regular Session.

(3) there is no necessity known to the committee for the deliberations on said appointment to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

The Honorable James A. Scott May 5, 1995
President, The Florida Senate

Dear Mr. President:

The following executive appointment was 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:

Office and Appointment	*For Term Ending*
Secretary of Elderly Affairs Appointee: Lipscomb, Edward Bentley	Pleasure of Governor

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 appointee for appointment to the office 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 the 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 appointment of the above-named appointee, to the office and for the term indicated, be *confirmed* by the Senate.

(2) Senate action on said appointment be taken prior to the adjournment of the 1995 Regular Session.

(3) there is no necessity known to the committee for the deliberations on said appointment to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

The Honorable James A. Scott May 5, 1995
President, The Florida Senate

Dear Mr. President:

The following executive appointment was 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:

Office and Appointment	*For Term Ending*
Secretary of the Department of Juvenile Justice Appointee: Ross, Calvin	Pleasure of Governor

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 appointee for appointment to the office 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 the 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 appointment of the above-named appointee, to the office and for the term indicated, be *confirmed* by the Senate.

(2) Senate action on said appointment be taken prior to the adjournment of the 1995 Regular Session.

(3) there is no necessity known to the committee for the deliberations on said appointment to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

The Honorable James A. Scott May 5, 1995
President, The Florida Senate

Dear Mr. President:

The following executive appointment was 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:

Office and Appointment	*For Term Ending*
Secretary of Community Affairs Appointee: Shelley, Linda Loomis	Pleasure of Governor

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 appointee for appointment to the office 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 the 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 appointment of the above-named appointee, to the office and for the term indicated, be *confirmed* by the Senate.

(2) Senate action on said appointment be taken prior to the adjournment of the 1995 Regular Session.

(3) there is no necessity known to the committee for the deliberations on said appointment to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

The Honorable James A. Scott May 5, 1995
President, The Florida Senate

Dear Mr. President:

The following executive appointment was 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:

Office and Appointment	*For Term Ending*
Secretary of the Department of Management Services Appointee: Lindner, William Henry	Pleasure of Governor

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 appointee for appointment to the office 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 the 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 appointment of the above-named appointee, to the office and for the term indicated, be *confirmed* by the Senate.

(2) Senate action on said appointment be taken prior to the adjournment of the 1995 Regular Session.

(3) there is no necessity known to the committee for the deliberations on said appointment to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

On motion by Senator Crist, the reports were adopted and the Senate confirmed the appointments identified in the foregoing reports of the committee to the offices and for the terms indicated, in accordance with the recommendations of the committee. The vote was:

Yeas—40 Nays—None

The Honorable James A. Scott May 5, 1995
President, The Florida Senate

Dear Mr. President:

The following executive appointment was 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:

Office and Appointment	*For Term Ending*
Secretary of Labor and Employment Security Appointee: Jamerson, Douglas Lee	Pleasure of Governor

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 appointee for appointment to the office 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 the 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 appointment of the above-named appointee, to the office and for the term indicated, be *confirmed* by the Senate.

(2) Senate action on said appointment be taken prior to the adjournment of the 1995 Regular Session.

(3) there is no necessity known to the committee for the deliberations on said appointment to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

On motion by Senator Crist, the report was adopted and the Senate confirmed the appointment identified in the foregoing report of the committee to the office and for the term indicated, in accordance with the recommendations of the committee. The vote was:

Yeas—36 Nays—3

The Honorable James A. Scott May 5, 1995
President, The Florida Senate

Dear Mr. President:

The following executive appointment was 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:

Office and Appointment	*For Term Ending*
Secretary of the Department of the Lottery Appointee: Mann, Marcia L.	Pleasure of Governor

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 appointee for appointment to the office 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 the 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 appointment of the above-named appointee, to the office and for the term indicated, be *confirmed* by the Senate.

(2) Senate action on said appointment be taken prior to the adjournment of the 1995 Regular Session.

(3) there is no necessity known to the committee for the deliberations on said appointment to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

On motion by Senator Crist, the report was adopted and the Senate confirmed the appointment identified in the foregoing report of the committee to the office and for the term indicated, in accordance with the recommendations of the committee. The vote was:

Yeas—35 Nays—3

The Honorable James A. Scott May 5, 1995
President, The Florida Senate

Dear Mr. President:

The following executive appointment was 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:

Office and Appointment	*For Term Ending*
Secretary of Corrections	
Appointee: Singletary, Harry K., Jr.	Pleasure of Governor

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 appointee for appointment to the office 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 the 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 appointment of the above-named appointee, to the office and for the term indicated, be *confirmed* by the Senate.

(2) Senate action on said appointment be taken prior to the adjournment of the 1995 Regular Session.

(3) there is no necessity known to the committee for the deliberations on said appointment to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

On motion by Senator Crist, the report was adopted and the Senate confirmed the appointment identified in the foregoing report of the committee to the office and for the term indicated, in accordance with the recommendations of the committee. The vote was:

Yeas—39 Nays—None

The Honorable James A. Scott May 5, 1995
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:

Office and Appointment		*For Term Ending*
Florida Public Service Commission		
Appointees:	Clark, Susan Forbes	01/01/99
	Deason, J. Terry	01/01/99
	Garcia, Jose "Joe" Antonio	01/01/98

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 office 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 the 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 1995 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,
Charlie Crist, Chairman

On motion by Senator Crist, the report was adopted and the Senate confirmed the appointments identified in the foregoing report of the committee to the offices and for the terms indicated, in accordance with the recommendations of the committee. The vote was:

Yeas—36 Nays—1

The Honorable James A. Scott May 5, 1995
President, The Florida Senate

Dear Mr. President:

The following executive appointment was 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:

Office and Appointment		*For Term Ending*
Public Employees Relations Commission		
Appointee:	Gooding, Shirley O.	01/01/98

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 appointee for appointment to the office 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 the appointee.

After due consideration of the findings of such inquiry and the evidence adduced at the public hearings, the committee respectfully voted to send this appointment to the floor without recommendation.

Respectfully submitted,
Charlie Crist, Chairman

On motion by Senator Latvala, consideration of the above-named appointee was deferred.

The Honorable James A. Scott May 5, 1995
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:

Office and Appointment		*For Term Ending*
Board of Accountancy		
Appointees:	MacNamara, David C.	10/31/98
	Oscher, Steven S.	10/31/98
Board of Acupuncture		
Appointee:	Black, Emily Winkle	10/31/97
Board of Architecture and Interior Design		
Appointees:	Anderson, Gere Timberlake	10/31/96
	Gerken, Carl	10/31/98
	Greene, Newton	10/31/98
	Khuly, Margarita Alejandre	12/17/95
	Rosier, Wayne	10/31/97
	Shiff, Michael Alan	10/31/97
	Wirtz, Michael H.	10/31/97
Florida Board of Auctioneers		
Appointees:	Matias, Stanley	10/31/97
	Skeen, James Edward	10/31/97
Barbers' Board		
Appointees:	Boynton, William Frank	10/31/97
	McKinney, Ola Marie	10/31/97
Florida Building Code Administrators and Inspectors Board		
Appointees:	Fuchs, Donald Lee, Jr.	10/31/96
	Richards, Clark Read	10/31/97
	Sheffield, Evelyn	10/31/98
Board of Building Codes and Standards		
Appointee:	McRoy, James E.	02/11/97

Office and Appointment		For Term Ending
Board of Chiropractic		
Appointees:	Glisson, James Randall	10/31/97
	Serrano, Andrea	10/31/97
Florida Citrus Commission		
Appointees:	Davis, Joe L., Sr.	05/31/98
	Huff, James Edward	05/31/97
	Minton, John Lewis	05/31/97
	Owens, William Emmons	05/31/98
Escambia County Civil Service Board		
Appointees:	Alfred, William Thomas	02/15/99
	Brown, M. Love	02/15/99
Hillsborough County Civil Service Board		
Appointees:	Crooks, Dolores Gonzalez	07/02/95
	Reddick, Frank A.	07/02/95
Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling		
Appointees:	Ackord, Marie Mallory	10/31/98
	Landis, Charles E.	10/31/97
	Lobnitz, Gloria Swope	10/31/98
	Powers, Patsey J.	10/31/96
State Board of Community Colleges		
Appointees:	Beighle, J. Wayne	09/30/95
	Duong, Minh-Quyen (Mindy) Le	09/30/95
Florida Commission on Community Service		
Appointees:	Allen, Mary Wyatt	09/14/95
	Amparo, Alexis	09/14/95
	Bostic, James (Don) Donaldson	09/14/97
	Brenner, Melanie Orkin	09/14/97
	Brown, Betty Sullivan	09/14/96
	Danford, Richard D., Jr.	09/14/96
	Edmondson, Carrie Austin	09/14/95
	Fine, (Pat) Helen Margaret	09/14/97
	Fleming, Jane Erin	09/14/95
	King, Daniel S.	09/14/95
	Pollack, Tessa Martinez	09/14/97
	Sanjuan, Maria T.	09/14/95
	Schrank, Edward L.	09/14/97
	Shimberg, James Heiman, Jr.	09/14/96
	Walters, Abigail	09/14/96
	Young, George William	09/14/97
	Zipperer, Roberta Christine Herman	09/14/96
Board of Trustees of Brevard Community College		
Appointees:	D'Albora, John Vincent, Jr.	05/31/98
	Moehle, Rachel Cobb	05/31/98
Board of Trustees of Broward Community College		
Appointees:	Cummings, Janyth Roy	05/31/98
	Watts, Leon	05/31/98
Board of Trustees of Central Florida Community College		
Appointees:	McKoy, Sandra C.	05/31/98
	Roberts, Fred N.	05/31/98
Board of Trustees of Chipola Junior College		
Appointees:	Glass-Troutman, Suzanne R.	05/31/98
	Hudson, Eddie Myron	05/31/97
	Odom, John Howard	05/31/97
	Shuler, Gary H.	05/31/97
	Summers, David H.	05/31/98
Board of Trustees of Daytona Beach Community College		
Appointees:	Leonard, Albert J. III	05/31/98
	Wadsworth, Wilhelmina Littledale	05/31/98
Board of Trustees of Edison Community College		
Appointees:	McQueen, John David	05/31/98
	Monaco, Daniel	05/31/98
	Reiman, Cathy S.	05/31/98
Board of Trustees of Florida Community College at Jacksonville		
Appointees:	Milton, Teala A.	05/31/98
	Selton, Robert Warren, Jr.	05/31/98
	Wiggins, John Allen	05/31/98
Board of Trustees of Florida Keys Community College		
Appointees:	Foley, Michael John	05/31/98
	Monsalvatge, Stephanie Thompson	05/31/98
Board of Trustees of Gulf Coast Community College		
Appointees:	Chapman, Jeannette Byers	05/31/98
	Duren, George Walter	05/31/98
	Roche, Hugh Varnum	05/31/98
Board of Trustees of Hillsborough Community College		
Appointees:	Dicks, John Larry	05/31/98
	Marotta, Sam C.	05/31/95
Board of Trustees of Indian River Community College		
Appointees:	Crago, Harriett Kirk	05/31/98
	Pruitt, Donald Eugene	05/31/98
	Reynolds, Billie Jean Clemons	05/31/98
	Syfrett, Linda T.	05/31/98
Board of Trustees of Lake City Community College		
Appointees:	Bennink, Donald T., Bell	05/31/98
	Varnes, Thomas D.	05/31/98
	Williams, Louis, Jr.	05/31/98
Board of Trustees of Lake-Sumter Community College		
Appointees:	Bartch, Dale E.	05/31/98
	Shumacker, Jacob Cecil III	05/31/98
Board of Trustees of Manatee Community College		
Appointees:	Matthews, A. Lamar, Jr.	05/31/98
	Ridings, Dorothy Sattes	05/31/98
Board of Trustees of Miami-Dade Community College		
Appointees:	Daughtrey, Newall J.	05/31/98
	Wolfson, Louis III	05/31/98
Board of Trustees of North Florida Junior College		
Appointees:	Haas, Sandra Kay	05/31/98
	Pritchett, Elesta Clemmons	05/31/98
	Townsend, Wallace Sharpe	05/31/98
Board of Trustees of Okaloosa-Walton Community College		
Appointees:	Anchors, Larry Young	05/31/98
	Campbell, Janet Bullard	05/31/98
	Hill, Walter B. (Mike)	05/31/97
	King, James E.	05/31/98
Board of Trustees of Palm Beach Community College		
Appointee:	Steele, Mary (M.J.) Casey	05/31/98
Board of Trustees of Pasco-Hernando Community College		
Appointees:	Browning, Mark E.	05/31/98
	Davis, Mitchell, Jr.	05/31/98
	Pearson, Carole Ann	05/31/98
Board of Trustees of Pensacola Junior College		
Appointees:	Appleyard, Diane Paige	05/31/98
	Byrd, William (Bill) Ezra	05/31/97
	Coker, Denton Reuben	05/31/98
	Moore, Marjorie	05/31/98
	Robertson, Elba W.	05/31/97
Board of Trustees of Polk Community College		
Appointees:	Little, Bernard L., Jr.	05/31/98
	Tucker, Lottie S.	05/31/97
Board of Trustees of St. Johns River Community College		
Appointees:	Cotton, William R.	05/31/98
	McKellar, Charlotte Tanner	05/31/98
	Torode, William Edwin III	05/31/98
Board of Trustees of St. Petersburg Junior College		
Appointees:	Lang, Joseph Hagedorn	05/31/98
	Young, Robert Columbus	05/31/98
Board of Trustees of Santa Fe Community College		
Appointees:	Boles, Judy Edwards	05/31/98
	Hatcher, Harry Milton, Jr.	05/31/98
	Woody, Robert Lee	05/31/98
Board of Trustees of Seminole Community College		
Appointee:	Kovaleski, Charles James	05/31/98

Office and Appointment		For Term Ending
Board of Trustees of South Florida Community College		
Appointees:	Cline, Jane Sorrells	05/31/98
	Goodman, Sharon Thomas	05/31/97
	Hanchey, Robert Edward	05/31/98
	Stidham, Dorothy Crews	05/31/98
Board of Trustees of Tallahassee Community College		
Appointees:	Alexander, Joseph	05/31/98
	Gaby, Scott Wilson	05/31/98
	Hanna, Randall W.	05/31/98
Board of Trustees of Valencia Community College		
Appointees:	Manning, Edward James	05/31/98
	Tompkins, Marcia McDugald	05/31/98
Construction Industry Licensing Board		
Appointees:	Alford, Maggie Fairley	10/31/96
	Bloom, Samuel M.	10/31/97
	Nagin, Robert Daniel	10/31/98
	Pepin, Richard Chase	10/31/98
	Tate, J. Kenneth	10/31/97
Florida Corrections Commission		
Appointees:	Harvey, David Fulton	06/30/96
	Herrera, Carlos, Jr.	06/30/96
	Pearl, Dan	06/30/96
	Wallace, Aaron	06/30/98
Board of Correctional Education		
Appointees:	Bryant, Ellen Sanders	08/31/97
	Harvey, Isaac Stephenson (Steve)	08/31/95
State of Florida Correctional Medical Authority		
Appointees:	Dertke, Max C.	07/01/98
	Floyd, Hugh Jackson	09/30/98
Board of Trustees for the Florida School for the Deaf and the Blind		
Appointees:	Kinsey, Randolph	11/13/97
	Manning, Altha F.	11/20/97
	Pittaluga, Rodolfo, Sr.	02/07/99
	Turner, Edgar Malone	11/19/96
Board of Dentistry		
Appointees:	Garcia, Faustino Gabriel	10/31/99
	Levine, Phil Jay	10/31/97
	McDonough, Jacqueline Burt	10/31/97
	Ross, Charles Lee	10/31/97
	Scott, Edward Roosevelt II	10/31/99
Florida Development Finance Corporation		
Appointees:	Mitchell, John A. III	05/02/96
	Stewart, Thomas Dixon	05/02/98
Education Practices Commission		
Appointees:	Brummond, Toni F.	09/30/98
	Gray, Desmond Patrick, Jr.	09/30/98
	Long, John William	09/30/98
	Williams, Alfred C.	09/30/98
	Williams, Joseph, Jr.	09/30/95
	Yarbrough, A. Keith	09/30/98
Education Standards Commission		
Appointees:	Bouzianis, Stephen	09/30/97
	Cambridge, Herbert Virgil	09/30/97
	Denmark, Linda Carol	09/30/97
	Fedrick, Doretha Bivins	09/30/97
	Luckey, Charles R.	09/30/97
	McDavis, Roderick John	09/30/96
	Northrop, Grace Moose	09/30/97
Florida Elections Commission		
Appointees:	Hardaway, Larry Donnell	12/10/95
	Lisska, Emily Retherford	12/10/97
Electrical Contractors' Licensing Board		
Appointees:	Abreu, Arnaldo	10/31/96
	Johnson, Errol W. S.	10/31/98
	Mills, Douglas Hall	10/31/97
	Small, Rachel (Rae) J.	10/31/98
Board of Employee Leasing Companies		
Appointees:	Byrd, Bernard Clinton, Jr.	10/31/96
	Dozier, Angela L.	10/31/96
Board of Professional Engineers		
Appointee:	Martinez, Pedro Octavio	10/31/98
Board of Directors, Enterprise Florida, Inc.		
Appointees:	Brown, Hugh McNeil	07/01/98
	Sink, Adelaide A.	07/01/96
	Starling, Bruce Cordell	07/01/98
Board of Directors, Enterprise Florida Capital Partnership		
Appointees:	Hill, Arthur James	03/09/96
	Masferrer, Eduardo A.	03/09/96
Board of Directors, Enterprise Florida Jobs and Education Partnership		
Appointees:	Brody, Sue Gourley	06/05/95
	Critchfield, Jack B.	06/05/98
	Donaldson, Carolyn D.	06/05/97
	Isenburg, Raymond Louis	Pleasure of Governor
	Johnson-Street, Kaaren P.	06/05/96
	Lenard, Marilyn P.	06/05/95
	Maloy, William Lewis	Pleasure of Governor
	Nunis, Richard A.	06/05/97
	Riley, Judy Byrne	06/05/98
	Schultz, Frederick H.	06/05/98
	Spence, Charles Calvin	Pleasure of Governor
	Subbs, James	Pleasure of Governor
Tampa-Hillsborough County Expressway Authority		
Appointee:	Carter, James Lee, Jr.	07/01/98
Board of Funeral and Cemetery Services		
Appointee:	Knopke, Keenan Lacy	09/08/97
Board of Funeral Directors and Embalmers		
Appointees:	Coleman, Andrew Brooker, Jr.	10/31/98
	Rosier, Patricia	10/21/97
Board of Professional Geologists		
Appointees:	Graves, Michael Allen	10/31/95
	Greene, Collace Clinton	10/31/96
	Harris, Alice Faye	10/31/98
	Herbert, Thomas A.	10/31/97
	Randazzo, Anthony F.	10/31/98
Commission on Government Accountability to the People		
Appointees:	Apthorp, James W.	08/21/98
	Chapin, Linda Welch	08/21/97
	Chapman, Joseph Fleming III	08/21/97
	Cosio, Isabel Cristina	08/21/96
	Critchfield, Jack B.	08/21/95
	Fine, Martin	08/21/97
	Flowers, Doby L.	08/21/98
	Frederick, Willard (Bill) D., Jr.	08/21/97
	Haskell, Preston Hampton	08/21/98
	Heggestad, Arnold Anderson	08/21/96
	Lindner, William Henry	08/21/95
	Sink, Adelaide A.	08/21/98
	Staed, Thomas W.	08/21/96
	Watts, Ben G.	08/21/95
	Wilson, Frederica Smith	08/21/96
Harbormaster for the Port of Key West		
Appointee:	Sweeting, Ulric E.	02/08/96
Board of Hearing Aid Specialists		
Appointees:	Bolanos, Engelberto Julian	07/30/95
	Dingler, Denson Powell II	10/31/96
	Kimberl, William Calhoun, Jr.	10/31/97
	Kosove, Charles A.	10/31/97

Office and Appointment		For Term Ending
	Weber, Dora W.	10/31/96
Health Care Board		
Appointees:	Brickler, Alexander D.	09/30/97
	Broxson, John R.	09/30/97
	del Portal, Carlos Alberto	09/30/97
	Malchon, Jeanne Keller	09/30/96
	Mauk, William Harold, Jr.	09/30/97
Citrus County Hospital Board		
Appointees:	Brannen, Joseph Samuel	07/11/97
	Jones, Floyd Lowell	07/05/97
	Jordan, Marilyn Crum	07/08/98
Board of Trustees of South Lake County Hospital District		
Appointees:	Arnold, Carmen Schoolcraft	07/05/97
	Conley, Michael Hord	07/05/97
	Williams, Ted Eugene	07/05/97
Florida Housing Finance Agency		
Appointees:	Lee, Edward, Jr.	11/13/96
	Paul, Pamela Yardley	11/13/96
Florida Commission on Human Relations		
Appointees:	Flom, Elena Marie Koch	09/30/96
	James, Keith Alan	09/30/97
	Santos, Laura Elena	09/30/97
	Walker, Chriss	09/30/96
State Board of Independent Colleges and Universities		
Appointees:	Banther, Barry L.	09/30/95
	Davidson, Margaret Skirving	09/30/97
	Milton, Fredrick T.	09/30/96
State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools		
Appointees:	Alexis, Patricia Augustina	07/01/95
	Cronin, Maida Placeres	07/01/96
	Foster, M. Marie	07/01/97
	Jackson, Virginia	07/01/97
	Matos, Miguel Jose	07/01/96
	Pardue, Carolyn Rennick	07/01/97
	Rehberg, Jeanne H.	07/01/95
Florida International Affairs Commission		
Appointees:	Benson, Hayward J., Jr.	07/09/97
	Kliman, Hy Wolfe	07/09/98
	Maguire, Amelia Rea	07/09/96
	Starling, Bruce Cordell	07/09/98
Investment Advisory Council		
Appointees:	Gentile, Anthony J.	12/12/98
	Miller, William, Jr.	12/12/95
	Mowell, John B.	12/12/98
Board of Professional Surveyors and Mappers		
Appointees:	Antrim-Berger, Beth E.	10/31/98
	Davis, Jim	10/31/97
	Echezabal, Henry Angel, Sr.	10/31/97
	Gibson, David Wylie	10/31/96
	Pittman, Oscar Wesley	10/31/98
	Woodward, Charles George	10/31/96
Board of Landscape Architecture		
Appointees:	Buffington, Leonard Wayne	10/31/97
	Burmer, Jane Futrell	10/31/97
Governor's Mansion Commission		
Appointee:	Shaw, Vidya Bernadette	09/30/98
Board of Massage		
Appointees:	Harrison, Karen Marie	10/31/97
	Keith, Thomasena Banks	10/31/96
	Whitridge, Frank Pierrepont	10/31/97
Board of Medicine		
Appointees:	Ashkar, Fuad S.	10/31/98
	Cerda, James J.	10/31/98
	Dauer, Edward Adrian	10/31/98
	Winchester, Gary Edwin	10/31/98

Office and Appointment		For Term Ending
Board of Nursing		
Appointees:	Hilton, Winifred Sue McPherson	10/31/97
	Leonard, Mary Kathryn Buckley	10/31/96
	Oles, Cathy Ann Reynolds	10/31/97
	Streisand, Max M.	10/31/97
Board of Nursing Home Administrators		
Appointee:	Padgett, Rubin Eugene	12/13/95
Board of Opticianry		
Appointees:	Anthony, Kim H.	10/31/97
	Morse, Manty Sabates	10/31/97
	Winterling, Joan Palmer	10/31/98
	Wooten, Stanley Eugene	10/31/98
Board of Osteopathic Medicine		
Appointees:	Lancaster, Lance Edward	10/31/97
	Perez, Gerardo Carlos	10/31/97
Board of Pharmacy		
Appointees:	Inge, Leonard LeBaron	10/31/96
	Mora, Juan Francisco	10/31/96
Board of Physical Therapy Practice		
Appointees:	Bolatiwa, Segun Omolaja "Victor"	10/31/98
	Hughes, Paul David	10/31/98
	Menge, Jewell Emily	10/31/96
Board of Pilot Commissioners		
Appointees:	Alonso-Poch, Manuel	10/31/96
	Bolton, Joseph Charles, Jr.	10/31/97
	Buffington, John Michael	10/31/97
	Harris, Annette Williams	10/31/95
	Sisselman, Ludmila Saposhkov	10/31/96
Pilotage Rate Review Board		
Appointees:	Alonso-Poch, Manuel	10/31/98
	Rodriguez, Ramon A.	10/31/96
	Scionti, Anthony Joseph	10/31/96
	Swindell, Robert Creed	10/31/95
	Tanos, Alexander Emory	10/31/95
Jacksonville Port Authority		
Appointee:	Strickland, Barbara Suddath	09/30/98
Tampa Port Authority		
Appointee:	Garcia, Joseph	11/14/98
Postsecondary Education Planning Commission		
Appointees:	Alterman, Richard Charles	02/04/97
	Bailey, Inez Williams	02/04/98
	Gillespie, Sally Mae	02/04/97
	Haynes, Thomas J.	02/04/98
	Inguanzo, Ramiro Jose	08/31/95
	Plunkett, Karen Linda	02/04/97
Prepaid Postsecondary Education Expense Board		
Appointee:	Ferguson, Sherida Lynn	04/30/97
Historic Florida Keys Preservation Board of Trustees		
Appointees:	Robinson, Nikki Solita Avila	06/30/95
	Toppino, Daniel Paul	06/30/97
	Wiley, Leroy B. (Buff)	06/30/97
Historic Palm Beach Preservation Board of Trustees		
Appointees:	Curl, Donald Walter	06/30/98
	Dickenson, Katharine Horn	06/30/97
	Jones, Phillis Flick	06/30/97
Historic Pensacola Preservation Board of Trustees		
Appointees:	Brown, Karen Friedrich	06/30/98
	Marx, Morris L.	06/30/98
Historic St. Augustine Preservation Board of Trustees		
Appointees:	Edmiston, Margaret Ann	06/30/98
	Lyon, Eugene	06/30/98
	Mason, Otis Alphonso	06/30/98
Historic Tallahassee Preservation Board of Trustees		
Appointees:	Eaton, James N., Sr.	06/30/98
	Inman-Crews, Dorothy Jean	06/30/98
	Proctor, Mary-Call Collins	06/30/98

Office and Appointment		*For Term Ending*
Historic Tampa-Hillsborough County Preservation Board of Trustees		
Appointees:	Baker, Andrew Allen, Jr.	06/30/98
	Kruse, Frances Protiva	06/30/98
Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.		
Appointees:	Goode, R. Ray	09/30/96
	Humphries, Frederick S.	09/30/95
	Reeves, James Jerauld	09/30/97
Board of Psychological Examiners		
Appointees:	Gardner, Henreitte Williams	10/31/97
	Perry, Nathan W., Jr.	10/31/96
Commission for Purchase from the Blind or Other Severely Handicapped		
Appointees:	Coloney, Wayne H.	10/01/97
	Moore, Louis St. Aubyn	10/01/97
Florida Real Estate Appraisal Board		
Appointees:	Basile, Dennis Edward	10/31/97
	Myers, Louis C.	10/31/97
	Wells, Carl Douglas	10/31/96
Florida Real Estate Commission		
Appointees:	Janney, E. Lou	10/31/98
	Stein, Clifford Marshall	10/31/97
	Stumberger, Meril D.	10/31/98
Oklawaha Basin Recreation and Water Conservation and Control Authority in Lake County		
Appointee:	Swartz, Gena Medrano	07/13/97
Withlacoochee Regional Planning Council, Region 5		
Appointee:	Poole, Eugene Alphonziea	10/01/95
East Central Florida Regional Planning Council, Region 6		
Appointees:	Chotas, Elias Nicholas	10/01/96
	Massey, Doris Eunice	10/01/96
	Roberts, Robi Kelley	10/01/96
Central Florida Regional Planning Council, Region 7		
Appointee:	Williams, Geraldine	10/01/95
Tampa Bay Regional Planning Council, Region 8		
Appointee:	Kennedy, Thomas Francis	10/01/95
Treasure Coast Regional Planning Council, Region 10		
Appointee:	Hartman, Peter Charles	10/01/96
State Retirement Commission		
Appointee:	Gosney, Cliff Byrd, Jr.	12/31/98
Board of Trustees of the John and Mable Ringling Museum of Art		
Appointee:	Barnett, James Samuel	11/05/96
Board of Speech-Language Pathology and Audiology		
Appointees:	Bollinger, Rick L.	10/31/98
	Gaunt, Barbara Brown	10/31/98
Florida Commission on Tourism		
Appointees:	Cokes, Solomon Alexander, Jr.	06/30/97
	Kimball, Russell A., Jr.	06/30/98
	Lounsberry, Frederick J.	06/30/98
	Sims, Bill J.	06/30/98
	Smith, Roxanna L.	06/30/96
Jacksonville Transportation Authority		
Appointee:	McClure, Donald R.	05/31/98
Florida Commission on Veterans' Affairs		
Appointees:	Flowe, Lynn May Baxter	11/16/96
	Kerns, Timothy D.	11/16/98
	Kling, William	11/16/98
	Lohlein, Frank G.	11/16/98
	Short, William E.	11/16/98
	Thomson, John Miller	11/16/96
Board of Veterinary Medicine		
Appointees:	Jennings, Lewis	10/31/97
	Lightfoot, Teresa Lane	10/31/97

Office and Appointment		*For Term Ending*
Governing Board of the St. Johns River Water Management District		
Appointees:	Chinoy, Kathy Geller	03/01/99
	Greene, Griffin Aubrey	03/01/99
	Harden, Patricia Trueman	03/01/99
	Mason, Otis Alphonso	03/01/97
	Swann, Jim (James) Terrell	03/01/99
Governing Board of the South Florida Water Management District		
Appointees:	Graham, William Ernest	03/01/99
	Pettis, Eugene K.	03/01/98
	Williamson, Frank Wesley, Jr.	03/01/99
Executive Director of South Florida Water Management District		
Appointee:	Poole, Samuel E. III	Pleasure of the Board
Big Cypress Basin Board of the South Florida Water Management District		
Appointees:	Barksdale, Clifford Bailey	03/01/97
	Goetz, Ellin	03/01/96
	Simpson, Anthony Glenn	03/01/97
Coastal Rivers Basin Board of the Southwest Florida Water Management District		
Appointees:	Helie, Kingdon (King)	03/01/97
	Henderson, Evelyn Chester	03/01/97
	Sanders, Virginia N.	03/01/96
Hillsborough River Basin Board of the Southwest Florida Water Management District		
Appointee:	Griffin, John Phillip	03/01/97

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 1995 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,
Charlie Crist, Chairman

On motion by Senator Crist, the report was adopted and the Senate confirmed the appointments identified in the foregoing report of the committee to the offices and for the terms indicated, in accordance with the recommendations of the committee. The vote was:

Yeas—39 Nays—None

The Honorable James A. Scott May 5, 1995
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:

Office and Appointment		*For Term Ending*
Florida Citrus Commission		
Appointees:	Diveley, Kenneth Ralph	05/31/98
	Paul, Margaret West	05/31/98

Office and Appointment		For Term Ending
Florida Commission on Community Service		
Appointees:	Heath, Perry Patrick	09/14/95
	Lackman, George Edward, Jr.	09/14/96
Board of Trustees of Hillsborough Community College		
Appointee:	Stiles, Mary Ann	05/31/98
Board of Trustees of Lake-Sumter Community College		
Appointee:	Marshall, Willie Jon	05/31/98
Board of Trustees of Miami-Dade Community College		
Appointee:	Fine, Martin	05/31/99
Florida Corrections Commission		
Appointees:	Bolte, John R.	06/30/96
	Dunn, Edgar M., Jr.	06/30/98
	Nichols, Katie Cowles	06/30/98
Board of Correctional Education		
Appointee:	Soubielle, Kimberly Bliss	08/31/97
Board of Trustees for the Florida School for the Deaf and the Blind		
Appointee:	Proctor, William Lee	11/14/98
Board of Dentistry		
Appointee:	Genco, Hilda Herrera	10/31/98
Florida Development Finance Corporation		
Appointees:	Darnell, David Clarke	05/02/95
	Hickman, Steven Douglas	05/02/98
	Werner, Patricia A.	05/02/97
Education Standards Commission		
Appointee:	Palmer, Mary J.	09/30/97
Board of Employee Leasing Companies		
Appointees:	Cooley, Steven Thomas	10/31/98
	Landrum, Henry Britton, Jr.	10/31/98
Board of Directors, Enterprise Florida Capital Partnership		
Appointee:	Cobb, Sue McCourt	03/09/97
Game and Fresh Water Fish Commission		
Appointee:	Kibler, Thomas Bryant	01/05/00
Board of Hearing Aid Specialists		
Appointee:	Augustus-Fidelia, Vicki Regina	10/31/97
Florida Housing Finance Agency		
Appointees:	Bennett, Clark Driskell	11/13/98
	Hussey, William Davis	11/13/98
	Mayes, Carl Herman	11/13/98
	Ramsey, William Jay	11/13/98
Florida Commission on Human Relations		
Appointee:	Richman, Gerald F.	09/30/98
State Board of Independent Colleges and Universities		
Appointee:	Laird, Sharon R.	09/30/97
Marine Fisheries Commission		
Appointees:	Hansen, Donald Reeves	08/01/98
	McElvy, George Roland	08/01/98
	Woodward, Robert Davidson III	08/01/98
Board of Optometry		
Appointee:	Lewis, John Braxton	10/31/98
Historic Palm Beach Preservation Board of Trustees		
Appointees:	Campbell, Doak S. III	06/30/98
	Ellington, Charlie Lovett	06/30/98
	Williams, William Sterling	06/30/96
Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.		
Appointee:	Orvis, Lacene Estes	09/30/97
Board of Regents		
Appointees:	Daniel, Charlton Bradford, Jr.	01/01/01
	McLin, Gwendolyn Ford	01/01/01
	Rosenberg, Jason J.	09/01/95

Office and Appointment		For Term Ending
State Retirement Commission		
Appointees:	Roberts, Dorothy Brooks	12/31/97
	Whitelock, Pamela Love	12/31/97
Director, Division of Retirement		
Appointee:	McMullian, Andrew Jackson III	Pleasure of Governor
Board of Speech-Language Pathology and Audiology		
Appointees:	Heise, Cynthia Dearmin	10/31/97
	Long, George J.	10/31/95
Florida Commission on Tourism		
Appointee:	Bruner, Maxwell Joseph	06/30/98
Florida Transportation Commission		
Appointees:	Nunis, Richard A.	09/30/98
	Vause, J. Lee	09/30/98
Governing Board of the Northwest Florida Water Management District		
Appointees:	Eubanks, Bennett Thomas III	03/01/99
	Fletcher, Edward Hentz, Jr.	03/01/99
	Griswold, Martin Copeland	03/01/99
	Howell, Robert Lee	03/01/99
	Willson, George W., Jr.	03/01/99
Governing Board of the St. Johns River Water Management District		
Appointee:	Williams, James H.	03/01/99
Governing Board of the South Florida Water Management District		
Appointees:	Hammond, William Frank	03/01/99
	Machek, Richard A.	03/01/99
	Singer, Miriam	03/01/99
Governing Board of the Southwest Florida Water Management District		
Appointees:	Allen, James L. III	03/15/99
	Law, Curtis L.	03/01/99
	Roo, Virginia S.	03/01/98
Pinellas-Anclote River Basin Board of the Southwest Florida Water Management District		
Appointees:	Baynard, Patsy Yeates	03/01/96
	Spigelman, Adelle Levin	03/01/96
Withlacoochee River Basin Board of the Southwest Florida Water Management District		
Appointee:	Vogel, John Thomas	03/01/97
Governing Board of the Suwannee River Water Management District		
Appointees:	Close, Boyd Wallace	03/01/99
	Crow, Ann M.	03/01/99
	Demott, Herbert George	03/01/99
	Griner, Lynetta Usher	03/01/99

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 1995 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,
Charlie Crist, Chairman

On motion by Senator Crist, the report was adopted and the Senate confirmed the appointments identified in the foregoing report of the committee to the offices and for the terms indicated, in accordance with the recommendations of the committee. The vote was:

Yeas—38 Nays—None

The Honorable James A. Scott May 5, 1995
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:

Office and Appointment	*For Term Ending*
Board of Architecture and Interior Design	
Appointee: Bermello, Willy Arel	10/31/97
Barbers' Board	
Appointee: Pumilia, Frank Joseph	10/31/97
Florida Building Code Administrators and Inspectors Board	
Appointees: Sheffield, Evelyn	10/31/94
Tornese, Cosmo (Cos)	10/31/97
Acting Secretary of Business and Professional Regulation	
Appointee: Anderson, Delane	Pleasure of Governor
Secretary of Business and Professional Regulation	
Appointee: Stuart, George, Jr.	Pleasure of Governor
Escambia County Civil Service Board	
Appointee: Alfred, William Thomas	02/15/95
Florida Corrections Commission	
Appointee: Warner, Mickey	06/30/98
Electrical Contractors' Licensing Board	
Appointee: Johnson, Errol W. S.	12/17/94
Board of Directors, Enterprise Florida Jobs and Education Partnership	
Appointee: Ruiz, Hector De J	06/05/96
Florida State Fair Authority	
Appointees: Fenn, Havert Leon	06/30/97
Patinella, Jami Lyn	06/30/97
Young, Sylvia M.	06/30/96
Citrus County Hospital Board	
Appointee: Jordan, Marilyn Crum	07/08/94
Secretary of the Department of Juvenile Justice	
Appointee: Ross, Calvin	12/15/94
Board of Physical Therapy Practice	
Appointee: Bolatiwa, Segun Omolaja "Victor"	10/31/94
Pilotage Rate Review Board	
Appointees: Alonso-Poch, Manuel	10/31/94
Crongeyer, Esther Jane	10/31/96
Harrison, James Lee	10/31/97
Postsecondary Education Planning Commission	
Appointee: Roberts, Frank Michael	02/04/98
Northeast Florida Regional Planning Council, Region 4	
Appointee: Owens, Linda Demes	10/01/94
Withlacoochee Regional Planning Council, Region 5	
Appointees: Jacobs, Joseph T.	10/01/94
Jenkins, Evangeline E. Hudson	10/01/94
Jacksonville Sports Development Authority	
Appointee: Gregory, Rodney Glenn	09/30/94
Florida Commission on Tourism	
Appointee: Lounsberry, Frederick J.	06/30/94
Board of Veterinary Medicine	
Appointee: Jennings, Lewis	08/01/94
Hillsborough River Basin Board of the Southwest Florida Water Management District	
Appointee: Baker, Julie Ansley	03/01/95

The Senate Committee on Executive Business, Ethics and Elections has failed to consider these appointments because:

(a) the terms of the following persons have expired: Evelyn Sheffield, William Thomas Alfred, Errol W. S. Johnson, Marilyn Crum Jordan, Calvin Ross, Segun Omolaja Bolatiwa, Manuel Alonso-Poch, Linda Demes Owens, Joseph T. Jacobs, Evangeline E. Jenkins, Rodney Glenn Gregory, Frederick J. Lounsberry, Lewis Jennings, and Julie Ansley Baker.

(b) the following persons have resigned: Willy Arel Bermello, Frank Joseph Pumilia, Cosmo Tornese, Hector Ruiz, Havert L. Fenn, Jami Lynn Patinella, Sylvia M. Young, Esther Jane Crongeyer, James Lee Harrison and Frank Michael Roberts.

(c) the following appointments were withdrawn at the request of the Governor: Delane Anderson and George Stuart, Jr.

(d) Mickey Warner passed away.

Therefore, the committee respectfully advises and recommends:

(1) That the Senate fail to consider the appointments during the 1995 Regular Session.

(2) That the failure to consider the appointments be noted in the pages of the Journal of the Senate in accordance with s. 114.05(1)(e), Florida Statutes.

Respectfully submitted,
Charlie Crist, Chairman

On motion by Senator Crist, the report was adopted and the Senate failed to consider the appointments identified in the foregoing report of the committee to the offices and for the terms indicated, in accordance with the recommendations of the committee.

The Honorable James A. Scott May 5, 1995
President of the Senate

RE: Suspension of:

Regina T. Brown
Tax Collector,
Glades County, Florida

Dear Mr. President:

The Committee on Executive Business, Ethics and Elections submits this final report on the matter of the suspension of Regina T. Brown.

By Executive Order Number 93-316, filed with the Secretary of State on November 23, 1993, the Honorable Lawton Chiles, as Governor, suspended Regina T. Brown, as Tax Collector, Glades County, Florida. The term of office for Ms. Brown as Tax Collector, Glades County, Florida, was from January 5, 1993 through January 6, 1997.

Executive Order Number 93-316, with information attached, charged that Regina T. Brown, while holding the aforesaid office, committed criminal violations of the laws of the State of Florida, viz: (1) one count of conducting or participating directly or indirectly in an enterprise, through a pattern of racketeering activity, while employed by or associated with such enterprise, as defined in section 895.02(3), Florida Statutes, to wit: Office of Tax Collector, Glades County, Florida, and did commit, attempt to commit or solicit others to commit at least two incidents of racketeering conduct that had the same or similar intents,

results, accomplices, victims or methods of commission or that were otherwise interrelated by distinguishing characteristics and were not isolated incidents, and posed a threat of continuing criminal conduct in violation of section 812.014, Florida Statutes; (2) eighty-two counts of knowingly obtaining or using, or endeavoring to obtain or use, money or property valued at three hundred ($300.00) dollars or more, the property of another, to wit: Glades County, Florida, as owner or custodian thereof, with the intent to temporarily or permanently deprive the owner or custodian of a right to the money or property, or a benefit therefrom, or to appropriate the money or property to the defendant's own use, or the use of any person not entitled thereto, in violation of section 812.014, Florida Statutes; and (3) one count of knowingly falsifying, or causing another to falsify, any official record or official document, with corrupt intent to obtain a benefit for herself or another or to cause unlawful harm to another, while a public servant, to wit: the operating budget account ledger of the Office of Tax Collector for Glades County, Florida, in violation of section 839.25, Florida Statutes. Executive Order Number 93-316 further stated that the facts alleged constituted the offenses of malfeasance, misfeasance, and the commission of a felony which are grounds for suspension under Article IV, Section 7, Florida Constitution.

Criminal prosecution of Regina T. Brown, was commenced in the Circuit Court of the Twentieth Judicial Circuit in and for Glades County, Florida, (Case Number 93-103), where she was charged with the violations described above on November 23, 1993 On December 7, 1993, Ms. Brown entered a plea of not guilty. On September 14, 1994, Ms. Brown pled guilty to eighty-two counts of grand theft and one count of official misconduct. Also on September 14, 1994, Ms. Brown was adjudicated guilty on eighty-two counts of grand theft and one count of official misconduct; was sentenced to a term of five years in prison on one count of grand theft and to a term of five years in prison on 79 counts of grand theft and one count of official misconduct, to run concurrently, with one day of credit for time incarcerated before the imposition of sentence; was sentenced to probation for a period of 10 years on the remaining two counts of grand theft; and was ordered to pay $250 in court costs, $1,000 in prosecution costs, and $88,612.70 in restitution to Glades County, Florida.

The Senate assumed jurisdiction of this matter on November 29, 1993, and this matter was referred to the Senate Committee on Executive Business, Ethics and Elections on December 7, 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) Regina T. Brown, was suspended from the office of Tax Collector, Glades County, Florida, on November 23, 1993 by Executive Order Number 93-316;

(2) Regina T. Brown, pled guilty to the offenses of eighty-two counts of knowingly obtaining or using, or endeavoring to obtain or use, money or property valued at three hundred ($300.00) dollars or more, the property of another, to wit: Glades County, Florida, as owner or custodian thereof, with the intent to temporarily or permanently deprive the owner or custodian of a right to the money or property, or a benefit therefrom, or to appropriate the money or property to the defendant's own use, or the use of any person not entitled thereto, in violation of section 812.014, Florida Statutes; and one count of knowingly falsifying, or causing another to falsify, any official record or official document, with corrupt intent to obtain a benefit for herself or another or to cause unlawful harm to another, while a public servant, to wit: the operating budget account ledger of the Office of Tax Collector for Glades County, Florida, in violation of section 839.25, Florida Statutes, and that such acts constitute the offenses of malfeasance, misfeasance, and the commission of a felony under the laws of the State of Florida, as such terms are used in Article IV, Section 7, Florida Constitution;

(3) With the adjudication of guilt on September 14, 1994, on the felony counts described above, pursuant to Article VI, Section 4, Florida Constitution, Regina T. Brown, 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) Regina T. Brown, is deemed to have vacated her 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) Regina T. Brown, has not contested her suspension on her own behalf, nor shown any cause why the Senate should not take further action to remove her from office.

In view of the foregoing, it is the recommendation of this Committee that Regina T. Brown, be removed from the office of Tax Collector, Glades County, Florida, effective November 23, 1993.

Respectfully submitted,
Charlie Crist, Chairman

On motion by Senator Crist, the foregoing report on the suspension of Regina T. Brown, Tax Collector, Glades County, Florida was adopted and the Senate removed Regina T. Brown from said office effective November 23, 1993. The vote was:

Yeas—39 Nays—None

SENATOR BURT PRESIDING

RECESS

On motion by Senator Jennings, the Senate recessed at 12:33 p.m. to reconvene at 1:15 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 1:38 p.m. A quorum present—39:

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	

LOCAL BILLS

HB 441—A bill to be entitled An act relating to Madison County; providing permanent status for certain employees of the Office of the Madison County Sheriff; specifying rights of such employees; providing procedures for appeal of disciplinary actions and complaints against employees of the office of the sheriff; providing for the appointment of boards to hear appeals and procedures with respect thereto; providing an effective date.

—was read the second time by title. On motion by Senator Williams, by two-thirds vote **HB 441** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 597—A bill to be entitled An act relating to St. Petersburg Junior College, Pinellas County; providing for the District Board of Trustees of the college to levy up to one-half mill tax per year for 2 years in Pinellas County; providing for a referendum election; providing for assessment and collection; providing that the proceeds of the tax levy shall not reduce state funding for St. Petersburg Junior College; providing an effective date.

—was read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 597** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1367—A bill to be entitled An act relating to the Sarasota-Manatee Airport Authority; amending chapter 91-358, Laws of Florida; authorizing the investment of authority surplus public funds; providing for the safekeeping of authority securities; providing an effective date.

—was read the second time by title. On motion by Senator Harris, by two-thirds vote **HB 1367** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1303—A bill to be entitled An act relating to Collier County; amending chapter 78-494, Laws of Florida, relating to the Immokalee Water and Sewer District; adding "waterworks" to the definition of "water systems"; adding language authorizing the district to institute, maintain, and enforce a grease management program for the district's commercial and industrial customers; providing an effective date.

—was read the second time by title. On motion by Senator Silver, by two-thirds vote **HB 1303** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motion by Senator Grant, by two-thirds vote **HB 1291** was withdrawn from the Committees on Natural Resources; and Rules and Calendar.

On motion by Senator Grant—

HB 1291—A bill to be entitled An act relating to Hillsborough County Port District; consolidating, compiling, and codifying extant laws pertaining to the district; providing legislative intent; conforming terminology; restoring words deleted through apparent inadvertence in the bond issuance provision; deleting provisions that have had their effect; revising provisions pertaining to public hearings, condemnation proceedings, the power to borrow money and incur indebtedness, the power to enter into joint agreements, withdrawal of moneys from the treasury of the port authority, awarding of contracts, adoption of rates and regulations, promotion and sales, and reimbursement for travel expenses; providing for periodic consolidation, compilation, and recodification of those laws; providing severability; repealing chs. 84-447, 87-426, 91-380, 92-233, 93-312, and 94-409, Laws of Florida, relating to the Hillsborough County Port District; providing a saving clause; providing an effective date.

—a companion measure, was substituted for **SB 1738** and read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 1291** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 2165—A bill to be entitled An act relating to Brevard County; authorizing the appointment of special police officers by the Brevard County School Board for the protection and safety of school personnel, property, and students within the school district; authorizing such officers to make arrests anywhere in the school district for violations of law occurring on the property of the school board; providing for powers, duties, qualifications, bonding, and compensation of such special police officers; providing an effective date.

—was read the second time by title. On motion by Senator Kurth, by two-thirds vote **HB 2165** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 2393—A bill to be entitled An act relating to the Tampa Sports Authority; amending s. 2, ch. 82-306, Laws of Florida; providing duty of the authority with respect to promoting sports and recreation facilities; amending s. 4, ch. 82-306, Laws of Florida; redefining the term "cost," for purposes of ch. 82-306, Laws of Florida, to include promotional costs; amending s. 5, ch. 82-306, Laws of Florida; prescribing powers of the authority with respect to promoting its facilities and licensing property for the construction of facilities; providing an effective date.

—was read the second time by title. On motion by Senator Beard, by two-thirds vote **HB 2393** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 2179—A bill to be entitled An act relating to Lee County; reenacting and amending ch. 74-522, Laws of Florida, as amended; limiting circumstances under which the sheriff may suspend or dismiss an employee; providing an effective date.

—was read the second time by title. On motion by Senator Silver, by two-thirds vote **HB 2179** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1607—A bill to be entitled An act relating to the North Brevard County Hospital District, amending chapter 28924, Laws of Florida, 1953, as amended; providing for the hospital board to participate in the provision of health care services and cooperation with other hospitals and health care providers to the extent permitted by the Constitution and general laws of the State of Florida; expanding the area and definition of health care facilities and services which may be maintained and provided by said district; placing restrictions on the use of funds derived from the prior or future assessment of ad valorem or other taxes on property located within said district to support such joint participation, facilities, or services if located or provided beyond the district boundaries; providing an effective date.

—was read the second time by title. On motion by Senator Kurth, by two-thirds vote **HB 1607** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1955—A bill to be entitled An act relating to Monroe County; amending chapter 69-1191, Laws of Florida, as amended; revising provisions relating to the Utility Board of the City of Key West; providing an effective date.

—was read the second time by title. On motion by Senator Jones, by two-thirds vote **HB 1955** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1951—A bill to be entitled An act relating to Lake County; ratifying the merging of the Northwest Lake County Hospital District and the Northeast Lake County Hospital District pursuant to chapter 189, F.S., into an independent special district to be known as the North Lake County Hospital District; creating a board of trustees of the district; providing the qualifications and duties of the members of the board; providing the method for election of the board; authorizing the board to provide funding to hospitals which provide indigent health care; requiring the board to levy a tax to fund such services; providing procedures for the tax levy; requiring an annual financial report and audit from the medical provider receiving the tax funds; authorizing the board to expend its funds for the district; requiring the board to periodically file financial statements of the district; authorizing the board to accept certain funds; repealing obsolete laws relating to the district and predecessor districts; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote **HB 1951** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

CS for HB 1943—A bill to be entitled An act relating to Charlotte County, relating to bridgeless barrier islands; allowing the use of golf carts on county roads located on such islands as designated by Charlotte County; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **CS for HB 1943** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 3032—A bill to be entitled An act relating to Lee and Charlotte Counties; creating the Gasparilla Island Bridge Authority, a special taxing district; providing district boundaries; prescribing the purposes, powers, privileges, duties, liability, and officials; providing applicability of the provisions of ch. 189, F.S., to said district; providing definitions; providing for the appointment of the first governing board and the election and appointment of its future members; defining terms of office; prescribing duties, powers, and qualifications, and fixing compensation; providing for the setting of bridge toll rates by the district; providing for the levy of ad valorem taxes upon the lands in said district under certain circumstances and for the collection and enforcement thereof; providing that excess funds may be used by the district for public purposes; providing the authority for the district to issue bonds and the authority to pledge revenues for the repayment of those bonds; providing the power of eminent domain; providing provisions with respect to the tax exemption of bonds, tax delinquency enforcement and liens relating thereto; providing for interlocal cooperation; providing for fees or costs for the offices of the county property appraisers and tax collectors; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Harris, by two-thirds vote **SB 3032** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 3034—A bill to be entitled An act relating to Charlotte and Sarasota Counties; creating and establishing as a political subdivision and a separate body politic a special district in certain areas in Charlotte and Sarasota Counties, to be known as the "Englewood Water District"; establishing boundaries; providing definitions; providing for election of a board of supervisors to govern said district; establishing powers, authority, and duties of the board; granting to said governing board the authority in the territory defined to construct, acquire, extend, enlarge, reconstruct, improve, maintain, equip, repair, and operate a water system, wastewater system, or a wastewater reuse system, or any combination thereof either as separate systems or as combined systems and all necessary or proper adjuncts thereto; authorizing the levy and collection of non-ad valorem assessments on property benefited by the construction of such water system, wastewater system, or a wastewater reuse system, or combined systems; providing for optional methods of financing the cost of the water system, wastewater system, or wastewater reuse system or combined systems or extensions and additions thereto by the issuance of revenue bonds, or assessment bonds, or any combination thereof and the fixing and collection of rates and charges on users of such systems; providing for the levy and collection of non-ad valorem assessments on benefited property and the pledge of such assessments for the payment of any revenue bonds, or assessment bonds; providing for the rights, remedies, and security of any of the holders of said bonds; providing penalties; providing referendums; repealing chapter 59-931, Laws of Florida, as amended, relating to the creation and establishment of the Englewood Water District; providing an effective date.

—was read the second time by title.

Senator Harris moved the following amendments which were adopted:

Amendment 1 (with Title Amendment)—On page 44, line 12, through page 46, line 15, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

In title, on page 2, line 8, strike "providing referendums;"

Amendment 2—On page 44, strike all of lines 7-11 and insert: provided by law.

Amendment 3—On page 12, strike all of lines 11 and 12 and insert: shall be noticed and open to the public as provided by law. Such

Amendment 4—On page 3, strike all of lines 19 and 20 and insert: exemptions given by general law.

On motion by Senator Harris, by two-thirds vote **SB 3034** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 3064—A bill to be entitled An act relating to the Port of Palm Beach District, Palm Beach County; amending chapter 74-570, Laws of Florida, to delete the provision that the purpose of the Port of Palm Beach District is proprietary in nature rather than governmental; designating the Port of Palm Beach District as a political subdivision of the State of Florida; providing that the property of the Port of Palm Beach District leased to tenants is exempt from taxation; providing an effective date.

—was read the second time by title.

Senator Myers moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 2, strike all of lines 14-24 and renumber subsequent section.

And the title is amended as follows:

In title, on page 1, strike all of lines 9-11 and insert: the State of Florida;

On motion by Senator Myers, by two-thirds vote **SB 3064** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

Consideration of **SB 3072** was deferred.

HB 603—A bill to be entitled An act relating to the Pinellas County Unified Personnel System Board, Pinellas County; amending chapter 77-642, Laws of Florida; adding the tax collector to the group of appointing authorities to whom the act applies; adding the Tax Collector to the group of constitutional officers who, as a body, appoint two members to the Personnel Board; adding the Tax Collector to the group of appointing authorities who determine the rate of compensation for Personnel Board members; adding the Tax Collector to the group of appointing authorities who establish a screening process for applicants for the position of Director of Personnel; providing an effective date.

—was read the second time by title. On motion by Senator Hargrett, by two-thirds vote **HB 603** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 653—A bill to be entitled An act relating to the City of Jacksonville Beach; amending chapter 27643, Laws of Florida, 1951, the employees' retirement system of the City of Jacksonville Beach, to make changes recommended by the board of trustees of the retirement system and the city council; providing that the trustees may vary the investment procedures outlined in ss. 175.071(1)(b) and 185.06(1)(b), F.S., by investing at cost up to 50 percent of the retirement system's assets in equities (common stocks or capital stocks); providing an effective date.

—was read the second time by title. On motion by Senator Bankhead, by two-thirds vote **HB 653** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 655—A bill to be entitled An act relating to the City of West Palm Beach, Palm Beach County, relating to the West Palm Beach Firefighters' Relief and Pension Fund; amending chapter 24981, Laws of Florida, 1947, as amended; providing for lifting of some investment restrictions; providing for certain required distributions; providing for rollover distributions; repealing all laws in conflict herewith; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 655** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 703—A bill to be entitled An act relating to the City of West Palm Beach, Palm Beach County, relating to the West Palm Beach Police Pension and Relief Fund; amending chapter 24981, Laws of Florida, 1947, as amended; providing for certain required distributions; providing for rollover distributions; repealing all laws in conflict herewith; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 703** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1181—A bill to be entitled An act relating to Seminole County; repealing ch. 57-485, Laws of Florida, relating to appropriation of certain race track money to the Seminole County Board of Public Instruction; repealing ch. 67-2078, Laws of Florida, relating to the appropriation of certain racing commission funds to the Seminole County Port Authority; repealing ch. 70-946, Laws of Florida, which provides for the distribution of certain racing commission funds to the district school board of Seminole County and provides for direct payment of certain racing commission funds by the Comptroller to the Seminole County Port Authority; providing that funds shall be distributed in accordance with s. 550.135, F.S.; providing that the Seminole County Board of County Commissioners and the district school board shall consider entering an interlocal agreement to define the use of disbursed funds for certain infrastructure improvements; providing for disbursement of $60,000 per year to the Seminole County Port Authority until December 31, 1996; providing for the distribution of funds to the Seminole County School District at various amounts until the end of fiscal year 1997/1998; providing for authorized use of funds; repealing ch. 57-485, Laws of Florida, ch. 67-2078, Laws of Florida, and ch. 70-946, Laws of Florida, effective immediately; repealing this act effective July 1, 1998; providing an effective date.

—was read the second time by title. On motion by Senator Dyer, by two-thirds vote **HB 1181** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1231—A bill to be entitled An act relating to the City of Orlando, Orange County, and the pension fund of the Orlando Police Department; amending and restating the pension fund and retirement plan created by chapter 22414, Laws of Florida, 1943, as amended; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Dyer, by two-thirds vote **HB 1231** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1235—A bill to be entitled An act relating to Orange County; relating to the Valencia Water Control District created pursuant to chapter 298, F.S.; amending chapter 80-556, Laws of Florida, as amended; redefining the boundaries of the district; providing an effective date.

—was read the second time by title. On motion by Senator Dyer, by two-thirds vote **HB 1235** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1791—A bill to be entitled An act relating to Palm Beach County; providing for the annexation and deannexation of lands in the Northern Palm Beach County Water Control District; deleting the requirement of landowner consent prior to inclusion of herein-identified lands within a unit of development for installation of drainage improvements; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 1791** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1815—A bill to be entitled An act relating to Wakulla County; amending ch. 65-905, Laws of Florida, as amended, relating to saltwater demarcation line; establishing the line at latitude thirty degrees nine minutes five seconds at Wakulla and St. Marks rivers; providing an effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote **HB 1815** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 2383—A bill to be entitled An act relating to St. Johns County; amending chapter 71-892, Laws of Florida; exempting St. Johns County from the provisions of s. 125.35, F.S., with reference to lease rental space in buildings owned by St. Johns County, provided that such spaces are not required for county purposes; providing an effective date.

—was read the second time by title. On motion by Senator Bankhead, by two-thirds vote **HB 2383** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 2591—A bill to be entitled An act relating to the Ponte Vedra Beach Zoning District in St. Johns County; providing for merging of the Ponte Vedra Zoning Board and the Ponte Vedra Board of Adjustment into the Ponte Vedra Zoning and Adjustment Board appointed by the St. Johns County Board of County Commissioners from residents and electors of the Ponte Vedra Beach Zoning District; providing for reduction of membership from ten to seven members; providing for the powers, functions, and duties of the Ponte Vedra Zoning and Adjustment Board; providing that the Ponte Vedre Zoning and Adjustment Board shall have the authority to make recommendations on development actions to the Board of County Commissioners in place of the local planning agency established pursuant to chapter 163, F.S.; providing a location for hearings of the Ponte Vedra Zoning and Adjustment Board; providing for staff support and funding of the Ponte Vedra Zoning and Adjustment Board; providing for meetings by the Ponte Vedra Zoning and Adjustment Board; repealing sections 6 and 7 of chapter 65-2171, and chapter 72-677, Laws of Florida; providing an effective date.

—was read the second time by title. On motion by Senator Bankhead, by two-thirds vote **HB 2591** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 2593—A bill to be entitled An act relating to the Construction Industry Licensing Board of Palm Beach County; amending chapter 67-1876, Laws of Florida, as amended; adding franchised cable television operators to the list of public utilities exempt from the provisions of the board; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 2593** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1551—A bill to be entitled An act relating to Brevard County; clarifying application of a rate study justification requirement for certain distribution differential surcharge rates imposed by a water utility; providing an effective date.

—was read the second time by title. On motion by Senator Bronson, by two-thirds vote **HB 1551** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

CLAIM BILLS

SB 264—A bill to be entitled An act relating to the City of Hallandale; providing for the relief of Deborah Brown; authorizing and directing the City of Hallandale to compensate Deborah Brown for the death of her minor child, Ramon Turnquest, which was due in part to the negligence of the City of Hallandale; providing an effective date.

—was read the second time by title.

The Committee on Judiciary recommended the following amendments which were moved by Senator Silver and adopted:

Amendment 1—On page 2, strike all of lines 26 and 27 and insert: directed to compensate Deborah Brown, personal representative of the estate of Ramon Turnquest, a deceased minor, in the amount of $130,000, $65,000 of which is to be paid within 20 days after the end of the 1995 regular legislative session and the remaining $65,000 is to be paid within 90 days thereafter, out of the funds of the City of Hallandale not

Amendment 2—In title, on page 1, line 3, before the semicolon (;) insert: , personal representative of the estate of Ramon Turnquest, a deceased minor

On motion by Senator Silver, by two-thirds vote **SB 264** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 1736—A bill to be entitled An act relating to the City of Hollywood; providing for the relief of George Durant and Stephen Durant; providing an appropriation to compensate them for the death of Sonja Durant, wife and mother of George Durant and Stephen Durant, respectively, as a result of the negligence of the City of Hollywood; providing an effective date.

—was read the second time by title.

One amendment was adopted to **SB 1736** to conform the bill to **CS for HB 799**.

Pending further consideration of **SB 1736** as amended, on motion by Senator Gutman, by two-thirds vote **CS for HB 799** was withdrawn from the Special Master; and the Committees on Judiciary; and Ways and Means.

On motion by Senator Gutman—

CS for HB 799—A bill to be entitled An act relating to the City of Hollywood; providing for the relief of George Durant and Stephen Durant; providing an appropriation to compensate them for the death of Sonja Durant, wife and mother of George Durant and Stephen Durant, respectively, as a result of the negligence of the City of Hollywood; providing an effective date.

—a companion measure, was substituted for **SB 1736** and read the second time by title. On motion by Senator Gutman, by two-thirds vote **CS for HB 799** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 1744—A bill to be entitled An act relating to the North Broward Hospital District, Broward County; providing for the relief of Justin Bates, a minor, by and through his mother and legal guardian, Cynthia Bates, and for the relief of Cynthia Bates, individually; providing an appropriation to compensate them for injuries sustained by Justin Bates as a result of the negligence of the North Broward Hospital District, d.b.a. Broward General Medical Center; directing the hospital to discharge a lien; providing an effective date.

—was read the second time by title.

The Committee on Judiciary recommended the following amendment which was moved by Senator Weinstein:

Amendment 1—On page 2, line 24, through page 3, line 12, strike all of said lines and insert:

Section 2. (1) The North Broward Hospital District shall pay from funds of the district not otherwise appropriated:

(a) The sum of $729,600 to Cynthia Bates.

(b) The sum of $200,000 to Cynthia Bates, plus interest on this amount of 12 percent per annum from the date of judgment through December 31, 1994, and thereafter at the rate of 8 percent per annum until paid.

(c) The sum of $128,160 to be transferred to a court-supervised guardianship fund for Justin Bates.

(d) The sum of $150,000 to be transferred to a court-supervised guardianship fund as a contingency fund for major medical expenses for Justin Bates.

(e) The sum of $500,000 in attorney's fees to Sheldon J. Schlessinger.

(2) The North Broward Hospital District shall purchase a single payment annuity contract with a company, mutually agreed to by the parties, which will pay for Justin Bates' continued medical care for as long as he continues to live. The annuity contract should provide an initial annual annuity benefit of $240,000 per year with an increase of 7 percent per year to cover the cost of inflation in medical care. All annuity benefit payments shall be paid to the court-supervised guardianship fund.

Section 3. The North Broward Hospital District is directed to discharge its claim of lien relating to charges made for the hospitalization of Justin Bates.

Section 4. The difference between the amount of the claim bill as filed and the amount of the claim bill as it becomes law shall constitute full and complete compensation for all medical care rendered to Justin Bates from January 14, 1985 through either 180 days from the date on which this act becomes law or the date Justin Bates leaves the hospital, whichever occurs first. Additionally, the North Broward Hospital District shall have no claim to the money currently held in escrow.

Section 5. Cynthia Bates shall have up to 180 days from the date this act becomes law to either remodel her home or find or build another home suitable for Justin's care. If Justin remains in the hospital after this time then the hospital shall have the right to charge for care, but not to exceed the amount of $20,000 per month as paid by the annuity.

Section 6. The North Broward Hospital District shall repay to the State of Florida any funds it may have received from the state for the care of Justin Bates.

Senator Weinstein moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—On page 2, line 16, after "escrow" insert: unless the Circuit Court of the Seventeenth Judicial Circuit determines that the North Broward Hospital District is entitled to be paid $1,542,292.11 for past medical treatment rendered to Justin Bates during his first 5 years of confinement in the Broward General Medical Center

Amendment 1 as amended was adopted.

On motion by Senator Weinstein, by two-thirds vote **SB 1744** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Gutman, by two-thirds vote **CS for HB 2181** was withdrawn from the Special Master; and the Committees on Judiciary; and Ways and Means.

On motion by Senator Gutman—

CS for HB 2181—A bill to be entitled An act relating to Metropolitan Dade County; providing for the relief of Eduardo Alonso; providing an appropriation to compensate him for injuries and damages sustained as a result of the negligence of Metropolitan Dade County; providing an effective date.

—a companion measure, was substituted for **SB 2988** and read the second time by title. On motion by Senator Gutman, by two-thirds vote **CS for HB 2181** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for HB 481—A bill to be entitled An act relating to the Town of Indian River Shores; providing for the relief of Charles Warmuth and Rita Warmuth; providing an appropriation to compensate them for injuries suffered due to an automobile accident; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **CS for HB 481** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

CS for HB 1397—A bill to be entitled An act relating to Metropolitan Dade County; providing for the relief of Charles and Juliet Turner, as surviving parents of Alyssa Turner; providing an appropriation to compensate them for the death of their daughter, Alyssa Turner, due to the negligence of Metropolitan Dade County; providing an effective date.

—was read the second time by title. On motion by Senator Jones, by two-thirds vote **CS for HB 1397** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

SENATOR SILVER PRESIDING

On motion by Senator Grant, by two-thirds vote **CS for HB 59** was withdrawn from the Special Master; and the Committees on Judiciary; and Ways and Means.

On motion by Senator Grant—

CS for HB 59—A bill to be entitled An act relating to the City of Fort Lauderdale; providing for the relief of Tyler G. Fontaine; providing an appropriation to compensate him for losses suffered and other damages sustained as a result of the negligence of the City of Fort Lauderdale; providing an effective date.

—a companion measure, was substituted for **CS for SB 830** and read the second time by title. On motion by Senator Grant, by two-thirds vote **CS for HB 59** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27 Nays—7

CS for SB 990—A bill to be entitled An act for the relief of Jean Sadowski; providing an appropriation to compensate her for losses suffered and other damages sustained as a result of the negligence of the Department of General Services; providing an effective date.

—was read the second time by title.

Senator Jones moved the following amendments which were adopted:

Amendment 1—On page 2, line 29 and on page 3, line 7, strike "$2,051,079" and insert: $1,546,079

Amendment 2 (with Title Amendment)—On page 2, lines 29-31 and on page 3, lines 1-10, strike all of said lines and insert:

Section 2. The Executive Office of the Governor is directed to transfer spending authority in the amount of $1,546,079 from existing operating categories of the Department of Management Services to a new category titled "Relief -- Jean Sadowski" upon execution of a waiver of any additional workers' compensation benefits, to compensate her for losses and damages suffered.

Section 3. The Comptroller is directed to draw his warrant in favor of Jean Sadowski upon execution of a waiver of any additional workers' compensation benefits, in the sum of $1,546,079 upon funds in the State Treasury to the credit of the Department of Management Services and the State Treasurer is directed to pay the same out of such funds in the State Treasury.

Section 4. This act shall take effect July 1, 1995.

And the title is amended as follows:

In title, on page 1, strike line 3 and insert: providing compensation to her

On motion by Senator Jones, by two-thirds vote **CS for SB 990** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34 Nays—None

RECONSIDERATION

On motion by Senator Jones, the Senate reconsidered the vote by which **CS for SB 990** passed as amended this day.

On motion by Senator Jones, by two-thirds vote the Senate reconsidered the vote by which **CS for SB 990** was read the third time.

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

On motion by Senator Jones, by two-thirds vote **CS for SB 990** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for SB 2436—A bill to be entitled An act for the relief of William L. Shirley and Esther S. Shirley; providing appropriations to compensate them for injuries sustained by William L. Shirley as a result of the negligence of the Department of Transportation and the Department of Highway Safety and Motor Vehicles; providing an effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote **CS for SB 2436** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—4

SB 352—A bill to be entitled An act for the relief of Robert Lee Wheeler; providing an appropriation to compensate him for attorney's fees and costs associated with his defense of a charge of improper conduct; providing an effective date.

—was read the second time by title. On motion by Senator Bankhead, by two-thirds vote **SB 352** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 660—A bill to be entitled An act for the relief of Lori Burns, wife of Samuel A. Burns, deceased; providing an appropriation to compensate her for moneys paid into the Florida Retirement System by her husband, Samuel A. Burns; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **SB 660** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

RECONSIDERATION

On motion by Senator Myers, the Senate reconsidered the vote by which **SB 660** passed this day.

On motion by Senator Myers, by two-thirds vote **HB 243** was withdrawn from the Special Master; and the Committees on Judiciary; and Ways and Means.

On motion by Senator Myers, by two-thirds vote—

HB 243—A bill to be entitled An act for the relief of Lori Burns, wife of Samuel A. Burns, deceased; providing compensation to her for monies paid into the Florida Retirement System by her husband, Samuel A. Burns; providing an effective date.

—a companion measure, was substituted for **SB 660** and read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 243** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

SB 1056—A bill to be entitled An act relating to the relief of certain members of the Florida National Guard; providing an appropriation to compensate them for property damage to their vehicles while they were on military duty during Hurricane Andrew; providing an effective date.

—was read the second time by title. On motion by Senator Bankhead, by two-thirds vote **SB 1056** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Grant, by two-thirds vote **HB 2131** was withdrawn from the Special Master; and the Committees on Judiciary; and Ways and Means.

On motion by Senator Grant—

HB 2131—A bill to be entitled An act relating to Pinellas County; providing for the relief of Lawrence P. Brown as Personal Representative of the Estates of Susan A. Brown and Judith A. Brown and as surviving father of Susan A. Brown and Judith A. Brown; providing an appropriation to compensate him for the deaths of his daughters, Susan A. Brown and Judith A. Brown, due to the negligence of the Pinellas County Sheriff's Office; providing an effective date.

—a companion measure, was substituted for **SB 1430** and read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 2131** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—1

CS for HB 455—A bill to be entitled An act for the relief of Dawn Ann Spioch, Kimberly A Ziegler, a minor, by and through her parents and next friends, James B. Ziegler and Jane Ziegler, and James B. Ziegler and Jane Ziegler; providing compensation to them for injuries and damages sustained as a result of the negligence of the Department of Transportation; providing an effective date.

—was read the second time by title.

The Committee on Judiciary recommended the following amendment which was moved by Senator Childers and adopted:

Amendment 1—On page 2, strike all of lines 13-15 and insert: directed to provide spending authority in the amount of $110,000 in the Department of Transportation from the State Transportation Trust Fund in a new category titled "Relief-Spioch and

On motion by Senator Childers, by two-thirds vote **CS for HB 455** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

SPECIAL ORDER

The Senate resumed consideration of—

HB 1499—A bill to be entitled An act relating to the regulation of onsite sewage treatment and disposal systems; amending s. 381.0065, F.S.; amending the definition of "available publicly-owned or investor-owned sewerage system"; defining the term "potable water line"; redefining an exemption; amending standards for the placement of onsite sewage treatment and disposal systems; providing for system compliance with specified rules; providing standards for design criteria and for performance criteria; providing for local public health units to approve or disapprove systems and to refer disapprovals to the Department of Health and Rehabilitative Services for a further determination; providing deadlines for such reviews; providing for written notification to the applicant of the department's determination and for the applicant's opportunity to pursue a variance or seek review; providing a standard for water table determinations and soil suitability modifying the application submission process; requiring connection of certain onsite sewage treatment and disposal systems to available public-owned or investor-owned sewerage systems under certain circumstances; providing application; providing an exception; providing criteria for sewer service and sewer services charges relating to certain onsite sewage systems; amending s. 381.0066, F.S., to conform cross-references; amending s. 381.0068, F.S.; redesignating the technical review panel as the technical review and advisory panel; providing duties of the panel; providing for panel membership, terms, meetings, and reimbursement; requiring the department to present proposed rules to the panel for comment; requiring the department to keep minutes of panel meetings, repealing s. 381.00655, F.S., relating to connection of existing onsite sewage treatment and disposal systems to central sewerage systems; providing an effective date.

—with pending **Amendment 1** by Senator Bankhead which had been considered May 4.

Senator Bankhead moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—On page 8, line 8, strike "July 1, 1972" and insert: January 1, 1972

Senators Grant and Bankhead offered the following amendment to **Amendment 1** which was moved by Senator Bankhead and adopted:

Amendment 1B (with Title Amendment)—On page 22, between lines 25 and 26, insert:

Section 4. Any person who, as a result of the winter storm of March 13, 1993, which was the subject of Presidential Disaster Declaration 982DR/FL, suffered the partial destruction or total loss of a commercial business or principal or secondary place of residence and any structures appurtenant to such place of residence or business and, as of the effective date of this act, is unable to rebuild or repair such residence or business and appurtenant structures to the same design criteria and standards which governed the original design and construction of such residence or business and appurtenant structures due to requirements imposed by the Department of Environmental Protection pursuant to ss. 161.052, 253.12, 253.1221, 253.77, 373.414(9), 373.422, 403.811, 403.813, and 403.814, Florida Statutes, is exempt from such requirements to the extent necessary to enable such person to rebuild or repair such residence or business and appurtenant structures. Local building code ordinances not affecting participation in the National Flood Insurance Program shall be applicable to persons seeking to rebuild or repair structures under this act only to the extent those codes allow rebuilding of the structure as it existed prior to March 13, 1993. However, local flood damage prevention ordinances and compliance with the minimum National Flood Insurance Program regulations as found in 44 CFR Parts 59 and 60 shall apply. The rule and permit requirements of the Department of Health and Rehabilitative Services, pursuant to ss. 381.0065, 381.00655, and 381.0066, Florida Statutes, shall be varied to the extent necessary to enable such person to rebuild or repair such residence or business and appurtenant structures, provided such variance does not create a sanitary nuisance.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 24, line 24, after the semicolon (;) insert: exempting certain persons from certain requirements of the Department of Environmental Protection; providing applicability of local codes; providing for compliance with National Flood Insurance Program regulations; providing variance of septic tank rules and regulations under certain circumstances;

On motion by Senator Bankhead, further consideration of **HB 1499** with pending **Amendment 1** as amended was deferred.

Consideration of **CS for CS for HB's 461 and 1885** and **CS for HB 2533** was deferred.

On motion by Senator Harris, by two-thirds vote **CS for HB 1745** was withdrawn from the Committees on Banking and Insurance; Criminal Justice; and Ways and Means.

On motion by Senator Harris—

CS for HB 1745—A bill to be entitled An act relating to insurance; requiring health insurance policies to provide coverage for nonprescrip-

tion enteral formulas for home use under certain circumstances; providing application; amending s. 624.438, F.S.; establishing licensing standards for multiple-employer welfare arrangements; providing an exception; amending s. 626.561, F.S.; clarifying its application of certain penalties to certain actions; amending s. 626.902, F.S.; providing criminal penalties for the representation of unlicensed insurers by licensed insurance agents and other persons; amending s. 626.989, F.S.; providing for immunity to insurers sharing information relating to fraudulent insurance acts; creating s. 626.9891, F.S.; providing for insurer anti-fraud actions; requiring insurers to file certain information with the Division of Insurance Fraud; requiring insurer to file anti-fraud plans with the division; specifying contents of anti-fraud plans; providing penalties; amending s. 772.102, F.S.; including certain provisions of law within the definition of "criminal activity"; 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.; including certain provisions of law within the definition of "racketeering activity"; providing an effective date.

—a companion measure, was substituted for **CS for SB 2282** and read the second time by title.

Senator Harris moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 20, between lines 15 and 16, insert:

Section 10. Subsection (5) is added to section 627.072, Florida Statutes, to read:

627.072 Making and use of rates.—

(5) Notwithstanding any other provision of this chapter, no insurer shall offer any discount, credit, or deviation, except a premium volume discount offer pursuant to approved rates filed on behalf of the insurer by the rating organization, a safe workplace discount pursuant to s. 627.0915, a drug-free workplace discount pursuant to s. 627.0915, or a managed care premium credit pursuant to s. 627.09155. However, the department is authorized to approve retrospective rating plans.

Section 11. Section 627.211, Florida Statutes, is hereby repealed.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 2, line 1, after the semicolon (;) insert: adding s. 627.072(5), F.S.; providing for statutorily authorized rate deviations; repealing s. 627.211, F.S., relating to workers' compensation and employer's liability insurance deviations;

On motion by Senator Harris, by two-thirds vote **CS for HB 1745** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

THE PRESIDENT PRESIDING

The Senate resumed consideration of—

SB 876—A bill to be entitled An act relating to education; authorizing individual district school boards by resolution to allow invocation or benediction at specified secondary-school-related events; providing legislative intent; providing an effective date.

—which had been considered May 4 and deferred on a point of order by Senator Silver.

RULING ON POINT OF ORDER

On recommendation of Senator Jennings, Chairman of the Committee on Rules and Calendar, the President ruled the point not well taken.

On motion by Senator Williams, further consideration of **SB 876** was deferred.

RECONSIDERATION

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

CS for HB 1745—A bill to be entitled An act relating to insurance; requiring health insurance policies to provide coverage for nonprescription enteral formulas for home use under certain circumstances; providing application; amending s. 624.438, F.S.; establishing licensing standards for multiple-employer welfare arrangements; providing an exception; amending s. 626.561, F.S.; clarifying its application of certain penalties to certain actions; amending s. 626.902, F.S.; providing criminal penalties for the representation of unlicensed insurers by licensed insurance agents and other persons; amending s. 626.989, F.S.; providing for immunity to insurers sharing information relating to fraudulent insurance acts; creating s. 626.9891, F.S.; providing for insurer anti-fraud actions; requiring insurers to file certain information with the Division of Insurance Fraud; requiring insurer to file anti-fraud plans with the division; specifying contents of anti-fraud plans; providing penalties; amending s. 772.102, F.S.; including certain provisions of law within the definition of "criminal activity"; 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.; including certain provisions of law within the definition of "racketeering activity"; providing an effective date.

—passed as amended this day.

On motion by Senator Harris, by two-thirds vote the Senate reconsidered the vote by which **CS for HB 1745** was read the third time.

On motion by Senator Harris, the Senate reconsidered the vote by which **Amendment 1** was adopted. **Amendment 1** was withdrawn.

On motion by Senator Harris, by two-thirds vote **CS for HB 1745** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for SB 1330—A bill to be entitled An act relating to public assistance; amending s. 409.029, F.S., relating to the Florida Employment Opportunity Act; defining the term "employment and training program" for purposes of the act; providing for entities other than the Department of Health and Rehabilitative Services to provide employment and training services under the act; revising program activities to be made available to eligible participants; providing for workers' compensation or similar coverage for certain participants; providing responsibilities of the department; revising requirements for recipients of public assistance in participating in employment and training programs; requiring an assessment of a participant's employability; authorizing the department to restrict the scope of the JOBS program; providing priorities for program participation; requiring the department to make certain projections with respect to resources and caseloads; deleting an orientation requirement for food stamp eligibility; deleting certain assessment requirements; providing a conciliation period for participants who fail to comply with program requirements; deleting provisions relating to a conciliation period and protective payees for noncompliant teen parents; providing for the department's service districts to execute contracts for employment and training activities; providing for the allocation of funds based on performance measures established by the department; requiring the Executive Office of the Governor to allocate staff positions and funding between the Department of Health and Rehabilitative Services and the Department of Labor and Employment Security for purposes of implementing the Florida Employment Opportunity Act; amending s. 409.185, F.S.; adding a requirement for a parent or a caretaker-relative of a school-age child; providing for reduced benefits payments in certain situations; specifying exemptions from reduced benefits; providing for an appeal; amending s. 409.924, F.S.; directing the department to exclude certain needs when determining AFDC benefits; providing for reinstatement of needs; amending s. 409.928, F.S.; modifying the membership of the review panel; amending s. 409.930, F.S.; specifying noncompliance notification and condition for reinstatement; directing the department to again request a waiver from the U.S. Department of Agriculture regarding certain benefits; directing the department to develop sanctioning procedures within specified guidelines related to noncompliance; amending s.

409.933, F.S.; directing the department to exclude a parent's and dependent student's needs when determining the AFDC benefits if the student does not comply with certain school requirements; amending s. 409.938, F.S.; allowing the department to review for compliance with immunization requirements; providing grounds for sanction; directing the Department of Health and Rehabilitative Services to request federal waivers; providing an effective date.

—was read the second time by title.

One amendment was adopted to **CS for SB 1330** to conform the bill to **CS for HB 1497**.

Pending further consideration of **CS for SB 1330** as amended, on motion by Senator Bankhead, by two-thirds vote **CS for HB 1497** was withdrawn from the Committees on Governmental Reform and Oversight; Criminal Justice; Rules and Calendar; and Ways and Means.

On motion by Senator Bankhead—

CS for HB 1497—A bill to be entitled An act relating to public assistance fraud; amending s 409.326, F.S.; providing for referral to the Division of Public Assistance Fraud of the Office of the Auditor General of violations involving the recipient of certain public assistance benefits; amending s. 409.3282, F.S.; providing for referral to the inspector general of the Department of Health and Rehabilitative Services of violations by departmental employees relating to certain public assistance programs; providing for referral to the Division of Public Assistance Fraud, under certain circumstances; providing for referral to the inspector general of the Agency for Health Care Administration of violations by agency employees relating to the Medicaid program; providing a penalty; amending s. 409.335, F.S.; providing procedures for recovery of overpayment made to a recipient who claims extreme hardship; providing for rules; authorizing the department and agency to enforce certain income deduction orders; creating s. 409.3251, F.S.; creating a Stop Inmate Fraud Program within the Division of Public Assistance Fraud of the Office of the Auditor General; providing guidelines for the program; providing duties and responsibilities of the division relating to procedures for sharing of specified information on incarcerated persons with the Department of Health and Rehabilitative Services, the Department of Labor and Employment Security, and other governmental entities; providing for data reports to the Child Support Enforcement Program of the Department of Revenue and the Social Security Administration; providing reporting requirements for state agencies and other governmental entities involved in the program; providing legislative intent with respect to operation and initial goals of the program; providing for designation of program personnel and provision of support services by the division; providing an appropriation; providing an effective date.

—a companion measure, was substituted for **CS for SB 1330** and read the second time by title.

Senator Bankhead moved the following amendment:

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

Section 1. Subsections (3) and (6), paragraph (b) of subsection (7), and subsections (9), (11), (12), (13), (14), (15), (16), and (17) of section 409.029, Florida Statutes, are amended to read:

409.029 Florida Employment Opportunity Act.—

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

(a) "Cost per placement" means the total amount of administrative, job services, training and education, and support service dollars expended to place a participant into unsubsidized employment.

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

(c) "Employment and training program" or "program" includes the services and activities provided for recipients of public assistance under either the Job Opportunities and Basic Skills Training (JOBS) program or the food stamp employment and training program.

(d)~~(c)~~ "Grant diversion" means a method of diverting the recipient's public assistance grant, or a portion of the grant, to the employer as a wage subsidy.

(e)~~(d)~~ "Limited service area" means an Aid to Families with Dependent Children (AFDC) service area with a total AFDC head of household caseload of less than 100 mandatory participants. The department may designate an area with a caseload in excess of 100 mandatory participants as a limited service area due to limited resources.

(f)~~(e)~~ "Program participant" means an AFDC applicant or recipient or a food stamp recipient who is required to participate or who volunteers to participate in the employment and training activities provided for in this act.

(g)~~(f)~~ "Public assistance" means the receipt of AFDC assistance payments or the receipt of food stamps.

(h)~~(g)~~ "Teenage parent" includes any person less than 20 years of age who is pregnant or who is already a parent.

(6) EMPLOYMENT AND TRAINING PROGRAM.—To the extent funds are available and federal law permits, employment and training program activities, *as defined in the state plans*, shall be made available to eligible participants. It is the intent of the Legislature that activities assigned to participants be developed in a method that will assist the participant in developing the skills and knowledge necessary to obtain economic independence and provide the foundation that allows the participant to achieve increased levels of economic growth.

(a) Activities *that are included in the state plans shall include the federally defined mandatory activities and two of the four federally defined optional activities. If sufficient funds are available, the remaining optional activities and additional activities allowed will be provided. These activities are defined to mean* ~~shall include, but not be limited to, all of the following~~:

1. Mandatory activities, which shall include:

a. Educational activities below the postsecondary level, including remedial education, which shall include adult functional or basic education, high school completion, and general equivalency diploma instruction, and English as a second language, which shall be intensive instruction in English for non-English speaking participants.

b. Jobs skills training, which includes vocational training and customized training for participants in technical job skills and equivalent knowledge and abilities in a specific occupational area. Jobs skills training may be provided by community colleges, universities, vocational-technical schools, local school district programs, and local private industry council programs. The training program must be expected to lead to employment based on a labor market needs assessment. Customized training programs for employers who hire participants, as defined by this act, in health, education, service, and child care positions should be encouraged. Customized training shall be intensive, compensated, marked by a prearrangement with the employer and designed specifically for a given employer or shall be intensive, uncompensated, and designated for a particular industry.

c. Job readiness activities, otherwise known as job club workshops, which shall be group or individual job readiness training sessions where participants learn various job finding and job retention skills. Workshops shall be conducted by persons trained in employment counseling. The skills taught in job club workshops shall include preparation of an application, writing a resume, interviewing techniques, understanding employer requirements and expectations, telephone canvassing for job leads, proper dress and conduct on the job, and ways to enhance self-esteem, self-image, and confidence.

d. Job development, referral and placement, which shall include, but not be limited to, referrals to jobs listed by employers with the Job Service of Florida and employment counseling, which shall be counseling aimed at helping a person reach an informed decision on an appropriate employment goal.

2. At least two of the four following optional activities, must be offered to eligible participants:

a. Initial and supervised job search. In initial job search, participants seek work without assistance, and make periodic progress reports to the department or the agency contracting with the department. In supervised job search, participants have access to telephones to contact prospective employers, job orders, direct referrals to employers, or other organized methods of seeking work which are overseen, reviewed and critiqued by the department or its agent.

b. On-the-job training, whereby participants are placed in subsidized employment to gain employment skills. The employer will be provided a subsidy for wages paid to participants in accordance with federal regulation.

c. Work supplementation, whereby participants are placed into subsidized employment to gain employment skills and the AFDC grant is diverted to the employer in accordance with federal regulation.

d. Employment preparation, which shall be nonpaid work for a public or nonprofit agency for individuals who are not otherwise able to obtain employment, that will assist them to move into permanent employment. Activities and participation requirements under employment preparation shall be consistent with federal requirements of the Community Work Experience Program for AFDC recipients and similar programs for food stamp recipients.

3. If sufficient funding is available, the department may offer additional activities, which include:

a. Postsecondary education leading to a bachelor's degree, when a participant's employment goal requires such and the education is directly related to the attainment of employment in a recognized occupation at a wage expected to lead to long-term self-sufficiency and based on a labor market needs assessment.

b. Work experience, which shall be nonpaid work for a public or nonprofit agency that provides the participant the opportunity to develop basic works skills, practice and improve existing skills, and acquire on-the-job experience.

c. Other programs that may be made available through federal legislation authorizing employment and training programs for public assistance recipients.

(b) All participants in work experience or in the Community Work Experience Program or a similar program for food stamp recipients shall be considered employees of the department solely for purposes of chapter 440, the Workers' Compensation Act. The department shall be responsible for securing the workers' compensation coverage. The department may, in lieu of workers' compensation coverage, procure medical and accident protection for onsite injury at the same level and to the same extent as that required under chapter 440, the Workers' Compensation Act. Income maintenance coverage is not required for these participants.

~~1. Initial job search, in which the participant shall seek work in his own way, and make periodic progress reports to the department or the agency contracting with the department.~~

~~2. Supervised job search, which shall include, but not be limited to, access to telephones to contact prospective employers, job orders, direct referrals to employers, or other organized methods of seeking work which are overseen, reviewed, and critiqued by the department or its agent.~~

~~3. Job club workshops, which shall be group or individual job readiness training sessions where participants learn various job finding and job retention skills. Workshops shall be conducted by persons trained in employment counseling. The skills taught in job club shall include preparation of an application, writing a resume, interviewing techniques, understanding employer requirements and expectations, telephone canvassing for job leads, proper dress and conduct on the job, and ways to enhance self esteem, self image, and confidence.~~

~~4. Job development, referral and placement, which shall include, but not be limited to, referrals to jobs listed by employers with the Job Service of Florida.~~

~~5. Employment counseling, which shall be counseling aimed at helping a person reach an informed decision on an appropriate employment goal.~~

~~6. Job skills training, which shall include, but is not limited to, training in industry specific job skills in a classroom or onsite setting, including training provided by local private industry council programs, universities, community colleges, and local school districts.~~

~~7. Work experience, which shall be nonpaid work for a public or nonprofit agency that provides the participant the opportunity to develop basic work skills, practice and improve existing skills, and acquire on-the-job experience. A voluntary participant in work experience activities is not an employee of the state or the department and is not subject to the provisions of chapter 440, the Workers' Compensation Act.~~

~~8. Employment preparation, which shall be nonpaid work for a public or nonprofit agency for individuals who are not otherwise able to obtain employment, that will assist them to move into permanent employment. Activities and participation requirements under employment preparation shall be consistent with requirements of the Community Work Experience Program for AFDC recipients and similar programs for food stamp recipients under federal law. The maximum number of hours a person participates in an employment preparation program shall be determined based on federal laws governing the AFDC and food stamp employment and training programs. The sponsor of an employment preparation assignment shall assist and encourage qualified employment preparation participants to compete for job openings occurring within the sponsor's organization for which they qualify. Workers assigned to public agencies shall be allowed to participate in classified service examinations equivalent to the positions they occupy, as well as all open and promotional examinations for which the participant is qualified based on experience in the position or other relevant experience under merit system rules. The department shall be responsible for administering employment preparation or shall contract the administration to county or municipal governments, or other providers approved by the department. Participation by a county or municipal government or a nonprofit agency as an employment preparation worksite shall be voluntary. A participant who is assigned to the Community Work Experience Program or a similar program for food stamp recipients is an employee of the state for purposes of chapter 440, the Workers' Compensation Act.~~

~~9. Remedial education, which shall include adult functional or basic education, high school completion, and general equivalency diploma instruction.~~

~~10. College and community college education, when that education provides sufficient employment skills training which can be expected to lead to employment based on a labor market needs assessment.~~

~~11. Vocational training in a community college, vocational technical school, or local school district program which can be expected to lead to employment based upon a labor market needs assessment.~~

~~12. English as a second language, which shall be intensive instruction in English for non-English speaking participants.~~

~~13. Other programs that may be made available through federal legislation authorizing employment and training programs for public assistance recipients.~~

~~14. Customized training programs for employers who hire participants, as defined by this act, in health, education, service, and child care positions should be encouraged. Customized training shall be intensive, compensated, marked by a prearrangement with the employer and designed specifically for a given employer or shall be intensive, uncompensated, and designated for a particular industry.~~

~~15. Work supplementation programs consistent with federal law.~~

(c)~~(b)~~ Standards established by the department for purposes of these programs shall be consistent with applicable federal law so as not to jeopardize federal financial participation.

(d)~~(c)~~ Eligible participants may take part in a full-time educational activity, including higher education and vocational training, to meet participation requirements and receive support services while participating in the educational activity. The department, in consultation with the Department of Education, shall define by rule "full-time educational participation."

(7) SUPPORT SERVICES.—

(b) Support services shall include, but not be limited to:

1. Child care, which shall be guaranteed and provided in conformity with federal law and regulation. The department may guarantee child care by:

a. Providing day care directly.

b. Arranging the day care through providers by use of purchase of service contracts or vouchers.

c. Providing cash vouchers in advance to the caretaker relative in the family; or

d. Reimbursing the caretaker relative.

2. Paid child care, which shall be provided to every AFDC participant with a child under 12 years of age who needs such care in order to participate in the program component to which the participant is assigned. Licensed child care or care in a registered family day care home shall be provided to an AFDC participant who requests such care. When care in a registered family day care home is provided, the participant shall approve the home prior to the placement of the child in the home. When the participant does not approve the placement of the child in the registered family day care home, the department shall provide the participant with two additional family day care or other alternative child care arrangements for the participant's approval. When the participant does not approve the additional family day care or alternative child care arrangements provided, without good cause as defined by department rules, the department may sanction the participant pursuant to subsection *(12)* ~~(13)~~. Reimbursement to child care providers shall not exceed local market rates within each district of the department. Reimbursement shall be made at a rate lower than that charged to private clients for the same service if the child care program agrees to charge a lower fee. The department shall:

a. Assist a participant in locating child care, when child care is needed.

b. Allow and promote parent choice by providing flexibility in child care arrangements and establishing payment arrangements.

c. Encourage contracting with licensed child care facilities or family day care home networks located in neighborhoods where there is a demand for child care for public assistance recipients.

d. Provide for the continuity of child care during the transition from welfare to work described in subparagraph 3.

e. The department shall coordinate the activities related to child care, as described in this subsection, with the central coordinating agency for child care in each of the districts of the department.

f. After protective services cases, AFDC applicants and recipients participating in activities under this section shall receive priority for vacant subsidized child care slots.

3. Child care after employment, which shall be provided as follows:

a. After protective services cases, AFDC program participants who terminate assistance due to employment shall receive priority for vacant subsidized child care slots.

~~b. Until April 1, 1990, once a participant has become employed and is no longer eligible for AFDC benefits, child care shall continue for a period not to exceed 3 months. Subsidized child care shall be provided thereafter, on the same basis as is provided to non-AFDC recipients.~~

b ~~c.~~ ~~Beginning April 1, 1990,~~ AFDC program participants who are eligible for transitional child care according to federal law and regulation, shall be provided subsidized child care for up to 12 months following termination of AFDC due to employment. During this period of transitional child care, families shall pay for child care on a sliding fee scale as follows, unless otherwise provided in federal regulations:

(I) Families with income less than the federal poverty level will pay a nominal fee per week as defined in rules promulgated by the department.

(II) Families with incomes above 100 percent of the federal poverty level shall pay a fee according to a sliding fee scale established by the department which culminates at not more than 185 percent of the federal poverty level.

(III) Persons who earn in excess of 185 percent of the federal poverty level shall be ineligible for subsidized child care paid in accordance with Title IV-A, Title IV-C, or Title IV-F of the Social Security Act, as amended.

c.~~d.~~ After transitional child care benefits have ended, families shall continue to receive subsidized child care on the same basis as is provided to non-AFDC applicants and recipients.

d.~~e.~~ AFDC program participants not eligible for transitional child care shall be provided subsidized child care following termination of AFDC due to employment on the same basis as is provided to non-AFDC applicants and recipients.

e.~~f.~~ The department is encouraged to coordinate the activities related to child care, as described in this subsection, with the central coordinating agency for child care in each of the districts of the department.

4. Transportation expenses, which shall be paid in advance, if necessary, for every participant who needs such assistance in order to participate in the program component to which the participant is assigned including transportation to and from child care.

5. Ancillary expenses, which the department shall reimburse the client or pay, for books and tools, clothing, fees, and costs necessary to participate in the program component to which the participant is assigned.

6. Personal counseling, for a participant who has a personal or family problem, such as drug or alcohol abuse, which serves as a barrier to employment or participation in the program component to which the participant is assigned shall, to the extent available, be referred to appropriate counseling or therapy. If requested, employment counseling to retain a job shall be available to the participant for 180 days after employment begins.

7. The cost of medical services, medical examinations, and costs of remedial care not covered by Medicaid or other insurance and necessary for an AFDC participant to obtain employment to participate in the program component to which the participant is assigned, which shall not exceed the department's medical fee schedule, shall be paid by the department. Every postpartum teenage mother required to return to school under the employment and training program shall be encouraged to have a postpartum medical examination in accordance with Medicaid regulations and procedures prior to her required return to school. If the examining health professional finds complications preventing the teenage mother's return to school, the teenage mother shall be exempt from participation for the length of time estimated by the examining health professional as necessary for recovery.

(9) PARTICIPATION REQUIREMENTS.—*Participation requirements described in this subsection apply to nonexempt AFDC applicants and recipients and to exempt AFDC applicants and recipients who volunteer to participate in the employment and training program. The requirements shall be waived for a participant who enrolls in a school district or community college technical education program that is eligible for performance-based funding as authorized in s. 239.249, and for a participant who is selected for participation in the Certified Teacher-Aide Welfare Transition Program.*

(a) All participants shall be required to attend orientation. At orientation, all participants shall be provided an overview of the program and information on participant rights and responsibilities.

(b) Following orientation, all participants shall be required to complete up to 3 weeks of job-search activities. Job-search activities shall be designed to speed employment entry for participants who are able to secure employment and to provide recent job-search experience for use in further assessment of the participant. A participant under 20 years of age who does not have a high school diploma or its equivalent is exempt from the initial job-search requirement.

(c) A participant who completes up to 3 weeks of initial job-search activities shall be provided an assessment of employability based on:

1. The participant's educational, child care, and supportive services needs.

2. The participant's proficiencies, skills deficiencies, and prior work experience.

3. The participant's family circumstances, which may include the needs of any child of the participant.

4. Other factors that the department determines are relevant to developing the participant's employability plan.

(d) Following assessment, a participant shall be assigned to program activities as follows:

1. A participant under 20 years of age who does not have a high school diploma or its equivalent shall be required to participate in an educational activity directed toward attaining a high school diploma or its equivalent.

2. A participant may be assigned to other employment and training activities if the participant is 18 or 19 years of age and:

a. Has previously failed to make good progress toward a high school diploma or its equivalent;

b. Has failed to maintain regular attendance in school prior to participation in the program;

c. Demonstrates a basic literacy level as defined by federal law; or

d. Has an employability plan that includes an employment goal that does not require a high school diploma or its equivalent.

3. A participant 20 years of age or older who has not attained a high school diploma or its equivalent shall be required to participate in an educational activity consistent with the participant's employment goals unless the participant demonstrates a basic literacy level as defined in federal regulations or the employability plan includes an employment goal that does not require a high school diploma or its equivalent.

4. All other participants shall be assigned to one or more of the following activities.

a. Job-readiness activities such as a job club workshop that prepares a participant for work by assuring that the participant is familiar with general workplace expectations and exhibits behaviors and attitudes necessary to compete successfully in the labor market;

b. Group or individual job-search activities;

c. Work supplementation; or

d. Community work experience or employment preparation.

(e) Participation in vocational education or training and postsecondary education shall be restricted to those participants who are concurrently engaged in at least 20 hours per week of employment-related activities as described in subparagraph (d)4., except that at least 12 hours weekly of this amount must be in an activity other than job search. This requirement for 20 hours of work-related activity may be waived when the participant is within 6 months of completing a vocational training or education activity that can reasonably be expected to result in employment upon completion. In addition, this requirement may be waived for a participant who has completed an initial job search, a job club workshop, and at least 12 weeks of work experience or employment-preparation activities.

(f) The requirement for concurrent participation in work-related activities as defined in subparagraph (d)4. and paragraph (e) applies to a participant who is engaged in self-initiated education or training and for whom funds for program activities or support services are requested.

(g) The department shall provide Job Opportunities and Basic Skills Training (JOBS) services to participants to ensure that the state maximizes its ability to receive enhanced federal funds by achieving all participation and target group expenditure rate requirements. The department may restrict the scope of the JOBS program to the activities required by federal law. Optional or additional components shall be offered to each group only after all groups have been served. Individuals shall be served in the following order as far as funds permit:

~~(a) All participants shall be required to attend orientation. At orientation all participants shall be provided an overview of the program and information on participant rights and responsibilities. Participants shall be assigned to one of the following categories, unless meeting criteria for exception to the initial job search requirement as defined in rule:~~

~~1. Approved for initial assessment and case management; or~~

~~2. Appropriate for initial job search and employment.~~

~~(b) At orientation, all public assistance recipients other than teenage parents shall be screened to determine the appropriateness of assignment to assessment and case management or initial job search according to the criteria in this section. Teenage parents and persons under 20 years of age without a high school diploma or its equivalent are exempt from initial job search requirements and shall be referred to case management. Participants requesting initial job search or meeting either of the following criteria shall be determined appropriate for initial job search not to exceed 3 weeks:~~

~~1. Employed 12 months or more out of the preceding 24 months at a weekly wage at least equivalent to the federal minimum wage times 30 hours; or~~

~~2. Has obtained a high school diploma or its equivalent.~~

~~The department shall also define conditions or circumstances under which participants who are enrolled in or awaiting enrollment in education or training activities are exempt from initial job search.~~

1.~~(c)~~ All *principal earners and nonexempt other parents in the AFDC unemployed parent program.* ~~exempt and nonexempt AFDC recipients who do not meet target group criteria shall be permitted to volunteer.~~

2. ~~Nonexempt~~ AFDC recipients who meet *federally defined* target group criteria. ~~shall be required to participate in the program. Exempt AFDC recipients who meet target group criteria shall be permitted to volunteer. If the department lacks resources to provide the services necessary for participation under this section,~~

3. Nonexempt AFDC recipients who do not meet the target group criteria ~~shall be required to participate in initial job search if they are approved for initial job search, but shall be deferred from further participation after completing up to 3 weeks of job search activities.~~

4. Exempt ~~If the department continues to lack resources to provide the services necessary for participation under this section, nonexempt~~ recipients who do not meet target group criteria. ~~and who are not approved for initial job search shall also be deferred from further participation after completing orientation. If deferring such recipients from mandatory participation does not alleviate budget constraints on services, the department shall defer nonexempt AFDC recipients who do not meet target group criteria from mandatory participation and may also defer participants who meet target group criteria from mandatory participation so long as the department is meeting federal participation rates and target group expenditure requirements. If the department cannot, after making a good faith effort, meet federal participation rates and target group expenditure requirements by deferring nonexempt target group AFDC recipients from participation, the department may limit service to AFDC recipients who meet target group criteria and may mandate the participation of those target group members who are nonexempt. The department may decline to serve non-target group volunteers only after the department has attempted to conserve its resources under the procedures established in this section.~~

(h) For purposes of determining the availability of funds to provide optional program components and to serve participant groups described in paragraph (g), the Assistant Secretary for Economic Services, or other person designated by the secretary, shall make such determination based on projected available funds, projected service needs, and projected caseloads.

1. Such projections shall be made at the beginning of each state fiscal year and shall be reviewed each time the Social Services Estimating Conference convenes to review resource and growth needs.

2. Caseload projections shall be consistent with the consensus estimates made by the Social Services Estimating Conference pursuant to ss. 216.133-216.137.

3. Projections shall be made in consultation with other offices responsible for related education, training, employment, child care, and other services.

4. Any restriction or reduction of services due to lack of funds shall include consideration of federal participation requirements and target group expenditure requirements. Projections of the capability to meet these requirements shall be made in determining limitations on services.

~~(d) A participant whose participation is mandated and who is determined to be eligible for initial job search through screening at orientation must participate in job search component activities for up to 3 weeks before receiving assessment, case management, or educational or training services. A participant who is determined to be eligible for assessment and case management has the option to participate in job search component activities before other program activities. Participants shall be served according to their own employment goal to the maximum extent possible. Volunteers may choose not to participate in job search component activities and may be referred to assessment to determine appropriate employment and training activities after orientation.~~

~~(e) Participants who are determined through screening to be inappropriate for initial job search and participants who have not been successful in finding employment upon completion of initial job search shall be provided assessment services to determine assignment to an appropriate training or educational activity.~~

~~(f) A nonexempt AFDC recipient under 20 years of age who does not have a high school diploma or its equivalent is required to participate in an educational activity directed toward the attainment of a high school diploma or its equivalent, on a full-time basis, consistent with federal regulations. Such educational activity may include, but is not limited to, teenage parent programs, child development training programs, or teachers for the homebound.~~

~~1. An AFDC recipient who is 18 or 19 years of age shall be required to participate in other educational, employment, and training activities if the individual fails to make good progress or maintain regular attendance in school, as defined by an educational provider, in consultation with the department.~~

~~2. The department may establish criteria under which AFDC recipients described in this paragraph who are under 18 years of age may be exempted from the educational requirement and required to participate in other appropriate activities allowed for in federal regulations.~~

~~(g) AFDC recipients 20 years of age and older who have not earned a high school diploma or its equivalent shall be required to participate in an educational component consistent with the individual's employment goals, unless the individual demonstrates a basic literacy level as defined by the department, or the employment plan identifies a long-term employment goal that does not require a high school diploma or equivalent. Any other services or activities to which such a participant is assigned may not be permitted to interfere with his or her participation in an appropriate educational activity.~~

~~(h) The department, in consultation with the Department of Education, shall establish standards for attendance and good standing for participants who are required to participate in adult or vocational education.~~

~~(i) Any individual who meets the established criteria for successful completion of the training or education services to which he is assigned, but who remains unemployed at the time of completion, shall be referred to job search activities. If the participant remains unemployed at the end of one or more of these activities, the participant's situation shall be reviewed and he shall be assigned to an appropriate program activity, including, but not limited to, work experience or employment preparation. If, at any time, a participant does not meet the established criteria for successful completion of the training or educational services to which the participant is assigned, the participant's situation shall be reviewed to determine a more appropriate assignment, including, but not limited to, assignment to employment preparation.~~

(i)~~(j)~~ Since a participant assigned to employment preparation will be expected to continue to seek employment at any time during the participation for employment preparation assignment, the participant shall receive job referral services, if requested.

(j)~~(k)~~ The department shall designate the maximum time permitted or mandated in program components other than as specified by this act. The time mandated for participation in job search shall be consistent with federal law.

(k)~~(l)~~ Employment and training services, as allowed by federal law or waiver, may be provided to noncustodial parents as part of a child-support enforcement court order.

(l)~~(m)~~ A family eligible for AFDC by reason of the unemployment of the parent who is the principal wage earner shall be considered AFDC applicants or recipients for the purpose of this section, except as follows:

1. Both parents shall be required to participate unless they meet federal exemption other than exemptions related to the age of the youngest child.

2. The principal wage earner shall be required to participate for up to 40 hours per week.

3. Payments may be made after the performance of assigned program activities by the principal wage earner.

4. The spouse shall be required to participate in employment and training activities, as defined by subsection (6), if funds are available and child care is guaranteed, except that the spouse of the principal earner who is personally providing care for a child under 3 years of age shall be exempt. When the youngest child is under 6 years of age, the spouse of the principal earner shall not be required to participate for more than 20 hours per week, unless otherwise allowed by federal law or regulation.

~~(n) Non-AFDC food stamp applicants, unless otherwise exempt, shall be required to attend orientation to employment and training as a condition of eligibility, unless the location of the orientation is not proximate to the food stamp office or is more than one-half mile away from the food stamp office. Transportation expenses associated with attendance at orientation may be paid in advance.~~

~~(11) ASSESSMENT.—An assessment shall be provided and an employment plan developed for each AFDC applicant and recipient determined to be appropriate for assessment and case management and each AFDC applicant and recipient determined to be eligible for initial job search who has not been successful in finding employment upon completion of job search. Assessment shall include, but not be limited to, the following:~~

~~(a) The participant's work history, including an inventory of his employment skills, knowledge, and abilities.~~

~~(b) The participant's educational history and present educational competency level.~~

~~(c) The participant's need for supportive services in order to obtain the greatest benefit from the employment and training services offered under this act.~~

~~(d) The occupational interest of the participant.~~

~~(e) The participant's family responsibilities and place of residence.~~

~~(f) The participant's physical capacities.~~

~~(g) Other participant characteristics as determined by the department and allowed by federal regulations.~~

~~This assessment shall form the basis of the employment plan.~~

(11)~~(12)~~ EMPLOYMENT PLAN AND PARTICIPANT AGREEMENT.—

(a) Each AFDC participant and an employment counselor shall jointly develop an employment plan. The plan *must* ~~shall~~ set forth those activities and services deemed necessary to obtain and retain employment.

(b) The employment plan *must* ~~shall~~ be written in clear and understandable language in the principal language, to the extent possible, of the participant and in English, and *must* ~~shall~~ have a simple and easy to read format. The plan *must* ~~shall~~ include:

1. The employment goal of the participant as a result of participation in this program and based on a labor market needs assessment of the local community.

2. A description of the barriers to employment.

3. A description of the program activities and supportive services that will be provided to the client in order for the client to achieve the employment goal.

4. A description of the rights, duties, and responsibilities of program participants, including a list of the exemptions and deferrals from required participation, examples of good cause, a delineation of the consequences for the refusal to participate, and a written and oral explanation of the right to appeal participation requirements and sanctioning as well as instruction on how to initiate such action.

(c) Once the participant has begun his training, education, or employment activity, he will have 30 days in which to request a change or reassignment to another component. Such request shall be granted provided that the request is consistent with the results of the assessment specified in *paragraph (9)(c)* ~~subsection (11)~~. This grace period shall be described in the plan amendment and shall be available only once to each participant.

(d) The department shall require the participant to enter into an agreement that specifies that the participant understands the responsibilities specified in the employment plan and agrees to perform all the activities specified in the plan. *If* ~~In the event that~~ the participant and an employment counselor are unable to reach agreement on the plan, or on a plan amendment, the matter shall be referred to an employment and training unit supervisor for resolution.

(12)~~(13)~~ SANCTIONS.—*When a participant fails to comply with program requirements, a 10-working-day conciliation period, beginning with the date the department or its contract provider notifies the participant in writing of such failure, shall be initiated. The purpose of the conciliation period is to provide participants with an opportunity to comply with program requirements before being removed from program participation and before fiscal sanctions are applied to mandatory participants.* Prior to imposing a sanction, *or removing a participant from program participation,* the department shall make a reasonable effort to resolve disputes ~~when a mandatory participant fails to meet program requirements~~. Reasonable efforts shall include a written notice to the participant of intent to sanction *and the reasons thereof.* The notice *also* shall include actions the participant may take to avoid sanctions, an offer to discuss barriers to participation, and, if appropriate, alternative program elements that may be incorporated in the case plan. When an AFDC recipient or food stamp recipient who is a mandatory participant in the program, without good cause as defined under applicable federal law and regulation and rules of the department, fails to meet program requirements or voluntarily terminates employment, or reduces earnings, the department shall *impose sanctions against* ~~sanction~~ the participant *in accordance with* ~~according to~~ federal law applicable to this program.

~~(14) PROTECTIVE PAYEES.—When an AFDC grant payee who is a custodial parent under age 20 fails to comply with program requirements, the department shall appoint a protective payee within 90 days of the determination of noncompliance. If a protective payee cannot be appointed within 90 days, the payee name shall remain the same. When noncompliance continues to exist after the 90-day period, and good cause for failure to comply does not exist, the department shall remove the needs of the noncompliant custodial parent under age 20 in accordance with federal and state law and regulation. The department shall apply for federal waivers no later than October 1, 1989, if necessary to carry out the mandates of this section.~~

(13)~~(15)~~ ADMINISTRATIVE PROCEDURES.—

(a) The department may, to the maximum extent allowable by federal law and regulations, contract for the services required by this section. All contracts, subcontracts, and agreements under this act *must* ~~shall~~ include specific performance criteria. Such contracts, subcontracts, and agreements may also include the provision of job placement assistance. These contracts *must* ~~shall~~ provide for termination of the contract at the discretion of the department if the provider either violates the employment plan contract described in this act or fails to meet the performance criteria specified in the contract.

(b) Funds for employment and training activities may be allocated to the service districts. Not less than 10 percent of such funds shall be allocated based on a weighted performance measure established by the department. Such measure must include weighted factors that include greater weight for placing participants who encounter more significant barriers to employment and greater weight for placing participants in an entry-level position that pays wages significantly above the federal minimum wage.

(14)~~(16)~~ EVALUATION.—The department shall evaluate or contract for evaluation of the program and shall collect data on program costs, caseload movement, and program outcomes, including, but not limited to, data on the following:

(a) The numbers of voluntary and AFDC mandatory participants served.

(b) The number of AFDC participants sanctioned.

(c) The number of AFDC participants whose grant is eliminated or reduced due to employment.

(d) The extent to which AFDC recipients return to AFDC after having their cash grant eliminated.

(e) The starting salary of employed participants, the average hours of employment, and the nature of employment attained, by occupational category.

(f) AFDC participants' job retention rate.

(g) Grant reductions or grant eliminations resulting from employment and training activities and estimates of total welfare cost avoidance.

(h) A statistically valid random sample to provide information concerning the number of participants still employed, and wage, at specific periods after initial employment, including data at 90 days, 6 months, 1 year, and 2 years.

The department shall maintain this data for the state and district. The department may contract with a qualified organization for the evaluation. The data collection system for this evaluation shall be designed to collect data in the least expensive and least time consuming manner possible and to utilize control groups. Utilizing data compiled, the department shall *biennially* report its findings to the Legislature and the Governor ~~by March 1, 1991, and biennially thereafter~~.

(15)~~(17)~~ RULES.—~~Prior to October 1, 1990,~~ The department shall file with the Secretary of State rules necessary to carry out the provisions of this act. Such rules shall include, but not be limited to, eligibility criteria, good cause determinations, participation criteria sanctioning procedures, and administrative and legal recourse available to participants.

Section 2. The Executive Office of the Governor shall determine the manner in which staff positions and the requisite funds shall be allocated between the Department of Health and Rehabilitative Services and the Department of Labor and Employment Security so as to achieve the interagency integration of services required under section 409.029(4) and (13), Florida Statutes. In making that determination, staff other than Department of Health and Rehabilitative Services personnel must be limited to administrative support or operations staff support necessary to support field operations, but not policy direction, monitoring, or quality assurance.

Section 3. Present subsections (2), (3), (4), (5), and (6) of section 409.185, Florida Statutes, are redesignated as subsections (7), (8), (9), (10), and (11), respectively, and new subsections (2), (3), (4), (5), and (6) are added to that section, to read:

409.185 Determination of eligibility for and amount of financial assistance; exclusions; report required.—

(2) The following Learnfare requirements apply to recipients of aid to families with dependent children:

(a) A parent or caretaker-relative who has a school-age child is required to have a conference with an appropriate school official of the student's school during each grading period to assure that the parent or caretaker-relative is involved in the student's education progress and is aware of any existing attendance or academic problems.

(b) Eligible dependent children who are of school age and eligible teenage recipients who have not been exempted from education-participation requirements must attend school regularly and must not accumulate a number of unexcused absences sufficient to jeopardize the students' academic progress.

(3) The department, with advice from the Department of Education, must adopt rules to implement the Learnfare provisions.

(a) The rules must include the following conditions as sufficient cause for an exemption from the education-participation requirements in paragraph (2)(b):

1. The eligible dependent child or teenage recipient has been expelled from school and alternative schooling is unavailable.

2. The teenage recipient has a child under 6 months of age.

3. Licensed day care is unavailable for a child of a teenage recipient subject to Learnfare.

4. Prohibitive transportation problems exist.

5. The teenage recipient is over 16 years of age and is not expected to graduate from high school by age 20.

(b) When a recipient fails without good cause, as defined by department rule, to comply with the Learnfare provisions in paragraphs (2)(a) and (b), the department must impose sanctions against the recipient to the fullest extent allowable under federal law. Procedures developed under this section shall have a 5-day conciliation period before the adverse action period commences. Reduction or termination of benefits shall be effective 10 calendar days after the date of the notice. Unless the recipient is exempt from the employment and training requirements

of the food stamp program, noncompliance with either of these Learnfare provisions constitutes noncompliance with employment and training requirements of the food stamp program. In such case, the department shall take action to reduce or terminate food stamp benefits.

(4) Within 10 days after the date of the notice of a reduction of benefits, the recipient may file an appeal with the department, and a sanction may not be imposed until the appeal is resolved.

(5) When a parent or caretaker-relative has not had the required school conference, the benefit payment must be reduced by the amount of the parent's or caretaker-relative's need. When the eligible school-age child or teenage recipient has accumulated a number of absences sufficient to jeopardize the student's academic progress, benefit payments must be reduced by the amount of the parent's or caretaker-relative's need and the eligible school-age child's or teenage recipient's need.

(6) The benefit payments must be reinstituted when the parent or caretaker-relative attends a school conference or after the next grading period during which the school-age child or teenage recipient has shown substantially improved school attendance.

Section 4. Paragraph (b) of subsection (3) of section 409.924, Florida Statutes, is amended to read:

409.924 Family transition program; general provisions.—

(3)

(b) The department shall advise program applicants for AFDC benefits of the availability of standard childhood immunizations through the county public health unit. ~~At the 6-month review, if the participant fails to submit proof of immunizations, the employment counselor shall notify the review panel.~~ The review panel shall take into consideration the failure of the participant to provide proof of immunization at its scheduled review. The department shall address barriers that prohibit the participant's ability to comply with the immunization requirement. *Verification of immunization for children under age 6 may be required at any point that a family enters the family transition program. For both applicants and recipients, normal pending procedures apply. If, at the end of the pending date established by the department, neither good cause nor compliance has been established, the department shall exclude the needs of the child subject to immunization and the needs of the parent from the AFDC grant. Medicaid eligibility must not be affected. When the child has been immunized, the child's needs and the parent's needs must be reinstated.*

Section 5. Paragraph (a) of subsection (1) of section 409.928, Florida Statutes, is amended to read:

409.928 Review panels; selection and responsibilities.—

(1)(a) Upon selection of the demonstration project locations, there shall be established at least one review panel for each demonstration project to assist in reviewing the sufficiency of the department's delivery of enhanced family transition program services as required in this act and the progress of participants. Each review panel must consist of seven members and must include a member of the local health and human services board *or a person designated by the board*, a member of the private industry council, a participant or former participant in the family transition program, *and four members at-large selected from a pool of individuals which includes members of the business community, members of the education community, and members affiliated with community organizations interested in self-sufficiency. During the first 2 years of operation of a site, the requirement for a current or former participant in the family transition program may be met by a current or former AFDC recipient.* ~~two members of the local business community, one member of the education community, and one member at large.~~ The district administrator shall submit nominees for each review panel to the health and human services board for confirmation. The member of the review panel designated from the health and human services board shall serve as interim chair until a permanent chair is elected by the members of the panel.

Section 6. Subsections (7) and (10) of section 409.930, Florida Statutes, are amended to read:

409.930 Enhanced services; participant responsibilities.—

(7) Each participant with a school-age child is required to have a conference with an appropriate school official of the child's school during each grading period to assure that the participant is involved in the child's educational progress and is aware of any existing attendance or academic problems. *At any time the case manager becomes aware of noncompliance with these requirements a failure to comply notice and a notice of adverse action must be sent to the participant. If during the 10-day notice-of-adverse-action period, the parent attends the required school conference, the parent's needs must be reinstated to the AFDC grant and support services will resume.*

(10) If a participant fails without good cause, as defined by department rule, to participate in any required family transition program activity, the department must impose sanctions against the participant to the fullest extent allowable under federal law. *The department shall develop sanctioning procedures that provide for a notice of failure to comply and notice of adverse action. Such notices shall include a statement explaining the noncompliance and how to comply, the availability of claiming good cause for the failure to comply, and the effective date of reduction or termination of AFDC benefits, child care benefits, or other support services. Procedures developed under this section shall include a 5-day conciliation period prior to the commencement of the adverse action period. Reduction or termination of benefits shall be effective 10 calendar days from the date of the notice. Unless the recipient is exempt from the Food Stamp employment and training requirements, noncompliance with any comparable family transition act program activity shall constitute noncompliance with Food Stamp employment and training requirements. In such case, the department shall take action to reduce or terminate food stamp benefits. For the purpose of determining that an individual's failure to comply has ceased, the department shall require the individual to participate in the activity to which the individual was previously assigned or an activity designed by the department to lead to full participation for a period of up to 2 weeks before terminating the sanction, except that during such participation the individual shall be eligible for child care and support services that the department determines are necessary for participation. The requirement for participation in an activity for up to 2 weeks prior to terminating the sanction may be waived by the individual's case manager if the case manager determines that such requirement would interfere with completion of the individual's self-sufficiency plan.* The department shall *again* request a waiver from the United States Department of Agriculture, Food and Nutrition Service so that, when a participant's AFDC benefits are reduced due to sanctions, that participant's food stamp benefits do not increase because of the reduced benefits.

Section 7. Section 409.933, Florida Statutes, is amended to read:

409.933 Family transition program learnfare requirement.—Pursuant to federal law and regulations, the department shall reduce the benefit payments for a participant's eligible dependent child or for an eligible teenage participant who has not been exempted from education participation requirements during a grading period in which the child or teenage participant has accumulated a number of unexcused absences from school that is sufficient to jeopardize the student's academic progress, in accordance with rules adopted by the department with input from the Department of Education. The benefit payments must be reinstituted after a subsequent grading period in which the child has substantially improved his attendance. Good cause exemptions from the rule of unexcused absences include the following:

(1) The student is expelled from school and alternative schooling is not available.

(2) The teen has a child under 6 months of age.

(3) No licensed day care is available for a child of teen parents subject to Learnfare.

(4) Prohibitive transportation problems exist (e.g., to and from day care).

(5) The teen is over 16 years of age and not expected to graduate from high school by age 20.

At any time the department becomes aware of noncompliance with these requirements, a failure to comply and adverse action notice will be initiated. The student's needs and the parent's needs must be removed from the AFDC grant until the student has demonstrated compliance. Medicaid eligibility must not be affected. ~~Fifteen days after sanction notification, the participant parent of a dependent child or the teenage participant may file an internal fair hearings process review procedure appeal, and no sanction shall be imposed until the appeal is resolved.~~

Section 8. Section 409.938, Florida Statutes, is amended to read:

409.938 Immunizations.—Statewide, the department shall advise applicants for aid to families with dependent children of the availability of standard childhood immunizations through the county public health unit. Within 12 months after a determination of eligibility for aid to families with dependent children or at the next scheduled full redetermination, the recipients must submit to the department proof that the children for whom they receive benefits have received their standard childhood immunizations. *In addition, the department may set special reviews to check on the completion of this requirement.* If a recipient fails to provide such proof of immunization, the department shall review the case to determine whether sanctions should be imposed. *If the individual fails to provide requested verification of completion of required immunizations and does not show good cause for the failure to comply, the needs of the child who has not been immunized and the needs of the parent must not be considered in the AFDC grant until the immunization is met. Medicaid eligibility must not be affected.* The department shall waive this requirement if the failure to immunize the children is because of religious reasons or other good cause, or upon proof that the immunization sequence has been started. *Once started, the individual is expected to remain current with the immunization sequence. Failure to remain current is grounds for sanction.*

Section 9. The Department of Health and Rehabilitative Services shall immediately apply to the Federal Government for a waiver to allow the department to terminate benefits and services to any participant who has completed the family transition program based on the participant's individual employability plan. In addition, the Department of Health and Rehabilitative Services shall apply for any federal waivers necessary to carry out the provisions of this act.

Section 10. If application for a federal waiver required by this act is denied, the Department of Health and Rehabilitative Services must report such action to the Legislature and must continue to operate the Family Transition Program in accordance with waivers previously approved by the federal agencies.

Section 11. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to public assistance; amending s. 409.029, F.S., relating to the Florida Employment Opportunity Act; defining the term "employment and training program" for purposes of the act; revising program activities to be made available to eligible participants; providing for workers' compensation or similar coverage for certain participants; providing responsibilities of the department; revising requirements for recipients of public assistance in participating in employment and training programs; requiring an assessment of a participant's employability; authorizing the department to restrict the scope of the JOBS program; providing priorities for program participation; requiring the department to make certain projections with respect to resources and caseloads; deleting an orientation requirement for food stamp eligibility; deleting certain assessment requirements; providing a conciliation period for participants who fail to comply with program requirements; deleting provisions relating to a conciliation period and protective payees for noncompliant teen parents; providing for the allocation of funds based on performance measures established by the department; requiring the Executive Office of the Governor to allocate staff positions and funding between the Department of Health and Rehabilitative Services and the Department of Labor and Employment Security for purposes of implementing the Florida Employment Opportunity Act; amending s. 409.185, F.S.; providing that specified Learnfare requirements apply to recipients of aid to families with dependent children; providing for administrative rules, including rules concerning exemptions from education-participation requirements; providing for sanctions; providing for an appeal; providing for the reduction of benefits and for the reinstitution of benefits when certain requirements have been met; amending s. 409.924, F.S.; directing the department to exclude certain needs when determining AFDC benefits; providing for reinstatement of needs; amending s. 409.928, F.S.; modifying the membership of the review panel; amending s. 409.930, F.S.; specifying noncompliance notification and condition for reinstatement; directing the department to again request a waiver from the U.S. Department of Agriculture regarding certain benefits; directing the department to develop sanctioning procedures within specified guidelines related to noncompliance; amending s. 409.933, F.S.; directing the department to exclude a parent's and dependent student's needs when determining the AFDC benefits if the student does not comply with certain school requirements; amending s. 409.938, F.S.; allowing the department to review for compliance with immunization requirements; providing grounds for sanction; directing the Department of Health and Rehabilitative Services to request federal waivers; providing requirements in case federal waivers are denied; providing an effective date.

Senator Bankhead moved the following amendments to **Amendment 1** which were adopted:

Amendment 1A (with Title Amendment)—On page 28, strike all of lines 20-31 and renumber subsequent sections.

And the title is amended as follows:

In title, on page 38, strike all of lines 22-28 and insert: amending s. 409.185, F.S.; providing that

Amendment 1B (with Title Amendment)—On page 37, between lines 10 and 11, insert:

Section 1. Section 409.326, Florida Statutes, is amended to read:

409.326 ~~Violation of food stamp program by~~ Recipient *fraud*; administrative penalties.—

(1) The department shall establish, in accordance with federal laws and regulations, procedures for referral to the Office of the Auditor General, Division of Public Assistance Fraud, of any case involving violation of federal or state laws, rules, or regulations governing the administration of the *assistance programs provided under this chapter* ~~food stamp program~~.

(2) A person who violates s. 409.325 or who otherwise violates the requirements of the food stamp program by knowingly and intentionally:

(a) Exchanging a food stamp or food stamp benefit authorization for currency;

(b) Exchanging a food stamp or food stamp benefit authorization for an alcoholic beverage;

(c) Exchanging a food stamp or food stamp benefit authorization for a nonfood item;

(d) Exchanging a food stamp or food stamp benefit authorization for a controlled substance, counterfeit controlled substance, or controlled substance analog;

(e) Exchanging a food stamp or food stamp benefit authorization to engage in gambling;

(f) Exchanging a food stamp or food stamp benefit authorization for the procurement of a prostitute; or

(g) Exchanging a food stamp or food stamp benefit authorization for any other unauthorized purpose as defined by federal or state law, rule, or regulation,

is, in addition to any criminal penalties which may be imposed, disqualified from participating in the food stamp program for a minimum of 5 years and a maximum of 20 years.

(3)(a) Pursuant to an administrative proceeding conducted in accordance with chapter 120, s. 409.285, and applicable federal regulation, the department must issue and serve a complaint stating charges upon any person who the department has reasonable cause to believe is engaging or has engaged in conduct that is a violation of any provision of this section or s. 409.325.

(b) A final order of administrative disqualification pursuant to this section is subject to judicial review in accordance with s. 120.68.

Section 2. Section 409.3282, Florida Statutes, is amended to read:

409.3282 *Internal fraud; administrative penalties* ~~Cause for employee dismissal~~.—

(1) The department shall establish, in accordance with federal laws and regulations, procedures to refer to the Office of the Inspector General any case involving violation by a departmental employee of federal or state laws, rules, or regulations governing the administration of the assistance programs provided under this chapter. When the depart-

ment's inspector general declines to investigate, the case must be referred to the Office of the Auditor General in the Division of Public Assistance Fraud, in accordance with ss. 409.325, 409.326, and 409.327.

(2) It is cause for dismissal of an employee of the Department of Health and Rehabilitative Services if the employee knowingly and willfully allows an ineligible person to obtain public assistance.

Section 3. Section 409.335, Florida Statutes, is amended to read:

409.335 Recovery of payments made due to mistake or fraud.—

(1) *When* ~~Whenever~~ it becomes apparent that any person or provider has received any benefits under this chapter to which he is not entitled, either through simple mistake or fraud, the department shall take all necessary steps to recover the overpayment~~, unless it is determined that extreme hardship would result if repayment were forced at that time~~. The department may make appropriate settlements and shall establish a policy and cost-effective rules to be used in the recovery of such overpayments.

(2) When a current or former recipient claims that extreme hardship would result if repayment of an overpayment resulting from agency error, as defined by rule, of benefits under Aid to Families with Dependent Children were forced at this time, the department shall determine whether repayment would cause an extreme hardship. Extreme hardship is limited to claims involving agency error in Aid to Families with Dependent Children. Extreme hardship exists when basic monthly living expenses exceed the Aid-to-Families-with-Dependent-Children payment standard for the size of the applicable assistance group, minus the applicable rate of reduction as defined by rule. The department shall define basic living expenses by rule. If the department makes a determination of extreme hardship, the monthly repayment or recoupment must be reduced, but may not be suspended. A determination of extreme hardship may not result in a discharge of the overpayment in whole or in part. The department shall establish rules to administer this subsection.

(3) Estoppel is not a defense to the recovery of overpayments made under this chapter.

(4) The department shall enforce income-deduction orders entered by a court against any liable adult, including the head of a household, for any overpayment received for a minor or an adult in the Aid-to-Families-with-Dependent-Children program, the food-stamp program, or the Medicaid program.

(5)~~(2)~~ When the department has *found* ~~made a~~ probable ~~cause determination and alleged~~ that an overpayment to a Medicaid provider has occurred, the department, after notice to the provider, may:

(a) Withhold, and continue to withhold during the pendency of an administrative hearing pursuant to chapter 120, any medical assistance reimbursement payments until ~~such time as~~ the overpayment is recovered, unless within 30 days after receiving notice thereof the provider:

1. Makes repayment in full; or

2. Establishes a repayment plan that is satisfactory to the department.

(b) Withhold, and continue to withhold during the pendency of an administrative hearing pursuant to chapter 120, medical assistance reimbursement payments if the terms of a repayment plan are not adhered to by the provider.

If ~~Should~~ a provider *requests* ~~request~~ an administrative hearing *under* ~~pursuant to~~ chapter 120, *the* ~~such~~ hearing *must* ~~shall~~ be conducted within 90 days following receipt by the provider of the final audit report, absent exceptionally good cause shown as determined by the administrative hearing officer. Upon issuance of a final order, the balance outstanding of the amount determined to constitute the overpayment *becomes* ~~shall become~~ due. Any withholding of payments by the department *under* ~~pursuant to~~ this section *must* ~~shall~~ be limited so that the monthly medical assistance payment *is* ~~shall~~ not ~~be~~ reduced by more than 10 percent.

(6)~~(3)~~ In all final agency actions and orders issued by hearing officers *which* ~~that~~ relate to recovery of medical assistance overpayments made due to a mistake of the provider or fraud, the department shall make a motion to impose an interest penalty at 10 percent per year from the date of final agency action or order by a hearing officer until the overpayment is recovered by the department. When the hearing officer's decision is that an overpayment was not made in an amount as great as *that determined* ~~identified~~ by the department, any *excess* collections made by the department *under* ~~pursuant to~~ subsection *(5) must* ~~(2) shall~~ be reimbursed within 60 days to the provider by the department with interest at 10 percent per year.

And the title is amended as follows:

In title, on page 39, line 30, after the semicolon (;) insert: amending s. 409.326, F.S.; broadening the scope of this section to cover all assistance programs under ch. 409, F.S.; amending s. 409.3282, F.S.; requiring the Department of Health and Rehabilitative Services to develop procedures for referring employee-fraud cases to the Office of the Inspector General; providing for referring such cases to the Office of the Auditor General in the Division of Public Assistance Fraud, in specified circumstances; amending s. 409.335, F.S.; authorizing the department to determine whether extreme hardship exists; providing that extreme hardship will not result in a discharge of an overpayment; authorizing the department to enforce income-deduction orders;

Amendment 1 as amended was adopted.

On motion by Senator Bankhead, by two-thirds vote **CS for HB 1497** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—2

CS for SB 1028—A bill to be entitled An act relating to the Environmental Regulation Commission; amending s. 20.255, F.S.; amending s. 403.804, F.S.; providing items to be considered by the commission in exercising its authority; restricting the commission from establishing policies, priorities, plans or directives; amending s. 403.805, F.S.; specifying that the Secretary of the Department of Environmental Protection has rulemaking authority; requiring the secretary to submit rules containing standards to the commission; providing an effective date.

—was read the second time by title.

Amendments were adopted to **CS for SB 1028** to conform the bill to **CS for HB 855**.

Pending further consideration of **CS for SB 1028** as amended, on motion by Senator Burt, by two-thirds vote **CS for HB 855** was withdrawn from the Committees on Natural Resources; and Rules and Calendar.

On motion by Senator Burt—

CS for HB 855—A bill to be entitled An act relating to the Environmental Regulation Commission; amending s. 20.255, F.S.; clarifying membership requirements of commissioners; amending s. 403.804, F.S.; authorizing the commission to exercise specified standard-setting authority of the Department of Environmental Protection; prohibiting the commission from establishing department policies, priorities, plans, or directives; amending s. 403.805, F.S.; granting the Secretary of the Department of Environmental Protection rulemaking authority; requiring the secretary to submit proposed rules to the commission for certain action; providing an effective date.

—a companion measure, was substituted for **CS for SB 1028** and read the second time by title.

On motion by Senator Harden, the rules were waived to allow the following amendment to be considered:

Senator Harden moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 1, line 16, insert:

Section 1. Risk-Based Priority Council.—

(1) There is created the Risk-Based Priority Council to recommend guidelines to the Governor, the Legislature, and agencies for implementing section 120.54(18), Florida Statutes.

(2) The council must consist of eight members who shall represent the disciplines of toxicology, statistics, air-pollutant dispersion, epidemiology, hydrology, risk assessment, and human health. Each council member must have a postgraduate degree in at least one of the disciplines

specified in this subsection and at least 6 years of employment experience in the discipline represented by the member on the council. Additional employment experience may be substituted for a postgraduate degree in order for a person to qualify for membership on the council. Members of the council may not be employees of the state or any political subdivision of the state, except that not more than three members may be faculty members of a state university.

(a) The Governor shall appoint four members to the council, one of whom must be an expert in statistics, one of whom must be an expert in risk assessment, and two of whom must be experts in human health and be medical doctors who have at least 6 years of employment experience in public health.

(b) The President of the Senate shall appoint two members to the council, one of whom must be an expert in air-pollutant dispersion and one of whom must be an expert in epidemiology.

(c) The Speaker of the House of Representatives shall appoint two members to the council, one of whom must be an expert in toxicology and one of whom must be an expert in hydrology.

(3) The members of the council shall be appointed within 45 days after the effective date of this act. The members of the council shall select a chairman and vice chairman to serve 1-year terms. A vacancy on the council shall be filled in the same manner as the initial appointment.

(4) The council members shall serve without compensation, but are entitled to reimbursement for travel and per diem expenses incurred while engaged in the business of the council as provided by section 112.061, Florida Statutes.

(5)(a) By May 1, 1996, the council shall submit a report, to the Governor, the Legislature, and each agency, recommending modifications to the risk-analysis guidelines for use by the agencies to efficiently prepare the risk-impact statement required under section 120.54(18), Florida Statutes.

(b) The report must include the most cost-effective, least burdensome, simple, and easy-to-understand risk-analysis guidelines for preparing the statement required in section 120.54(18), Florida Statutes. The guidelines must provide for consideration of exposure pathways, criteria for use of defaults, evaluation of dose-response relationships, consideration of the mode of action in both studied subjects and potentially exposed persons, selection of appropriate extrapolation models, use of no-effect thresholds, and identification of limitations and uncertainties at each step of the analysis. In preparing the report, the council shall, as necessary, consult with experts in state administrative procedures. The council shall, at a minimum, consider the following issues in preparing its report:

1. Methods to improve the risk-analysis process required by section 120.54(18), Florida Statutes, including the use of different levels of specificity and assessment detail commensurate with the identified risk when a risk analysis is required.

2. A method for obtaining data that will serve as the basis for a risk analysis, including a process for soliciting outside data and criteria for evaluating the quality and appropriateness of such data.

3. A description of assumptions, including limitations, defaults, range and variability of estimates, models to be used at each level of specificity and analysis, and processes for modifying or replacing those assumptions with actual data.

4. Information regarding the use of risk analyses conducted by the Federal Government, other state governments, or other organizations, and the criteria for evaluating the quality and appropriateness of the risk analyses.

5. Information on opportunities for public review of risk-analysis procedures and consideration of methods for independent peer review of the procedures.

6. A critical analysis of the proposed rules for which a risk analysis will be performed.

7. Means for expressing the overall conclusions of the risk analysis as to the likelihood of human health impacts, by route of exposure, in terms easily understood by the public.

8. The application of risk-analysis process described in section 120.54(18), Florida Statutes, to environmental impacts that may not be related to impacts to or effects upon human health or safety.

(c) The council shall review the relative-risk ranking done as part of the Florida Comparison of Environmental Risks Project.

(6) The council shall annually submit a report, by January 1, to the Legislature, the Governor, and each agency commenting on:

(a) The progress of agencies in performing risk analyses and preparing risk-impact statements.

(b) The success of the agencies in applying the risk-analysis process and prioritizing the use of limited public and private resources.

(c) Improvements that should be implemented in the risk-analysis process.

(7) The council shall meet as often as required to prepare the report required by subsection (5), and at least quarterly thereafter in order to evaluate agency progress in implementing risk-analysis procedures and to further report to the Governor and Legislature, as required in subsection (6). The location of the meetings shall be determined by the council, in a manner that allows for public participation in all parts of the state.

(8) The agencies shall cooperate to the fullest extent in assisting the council in performing its duties under this section. Agency cooperation shall include, but is not limited to, providing information and data in a convenient form related to an agency's preparation of any risk-impact statement or risk analysis.

(9) For administrative purposes, the council is assigned to the Joint Legislative Management Committee, which shall provide staff and assistance to the council.

(10) This section expires January 1, 2000.

Section 2. Subsection (18) is added to section 120.54, Florida Statutes, to read:

120.54 Rulemaking; adoption procedures.—

(18) An agency shall prepare a risk-impact statement for any major rule that is proposed for adoption, review, or amendment on or after January 1, 1997, and that establishes standards of criteria based on impacts to or effects upon human health or safety.

(a) As used in this subsection, the term "agency" means the Department of Environmental Protection, including the Environmental Regulation Commission serving in its capacity as a standard-setting authority; the Department of Community Affairs; the Department of Labor and Employment Security; the Department of Health and Rehabilitative Services; a water management district created under chapter 373; the Game and Fresh Water Fish Commission; and the Department of Agriculture and Consumer Services.

(b) A major rule is a rule that:

1. Applies to more than 100 applicants for a permit in any one year;

2. Applies to more than 100 permitted facilities in any one year;

3. Affects the health or safety of more than 1,000 members of the public;

4. Has an economic impact of $250,000 or more in any one year; or

5. Applies to an endangered species or threatened species or a species of special concern, as defined by state law or rule.

(c) This subsection does not apply to an emergency rule adopted under subsection (9).

(d) An agency shall prepare and publish notice of the availability of a clear and concise risk-impact statement for all applicable major proposed rules. The risk-impact statement must contain:

1. A discussion, with as much specificity as practicable, of the risk to the public health and safety addressed by the rule as determined by objective scientific information, and an explanation of the assumptions and data factored into the calculation of the risk. This discussion must include a description of the benefits of regulating as well as the benefits of not regulating the identified risk.

2. An analysis of the relative risk to the public health and safety when compared to common risks assumed by the public or to which the public is routinely exposed.

3. A description of reasonable alternative methods for achieving the purpose of the proposed rule which were considered by the agency, including, but not limited to, less costly or less proscriptive methods and nonregulatory, market-based incentives that encourage voluntary reduction of the risks addressed by the rule. This description must include a statement of the reasons for rejecting those alternatives in favor of the proposed rule.

4. A sworn certification signed by the agency head that, based on information and belief formed after reasonable inquiry:

a. The risk-impact statement is based upon an accurate evaluation of the risk to the health and safety of the public and is supported by the best available scientific evidence and other data.

b. The rule will substantially advance the purpose of protecting human health against the identified risk in the most cost-effective manner allowed by the law under which the rule is adopted.

c. The rule is required to protect human health and safety when compared to the risks that would be assumed by the public if the rule were not adopted.

d. The rule will produce benefits to human health and safety that justify the cost to the government and the cost to the public of implementing and complying with the rule.

e. The agency, in its rule-adoption proceedings, has followed the recommended guidelines of the Risk-Based Priority Council. If the agency does not follow the recommendations of the Risk-Based Priority Council, the agency head must set forth its reasons in this certification.

(e) If a major rule subject to this section does not undergo an economic-impact analysis or regulatory-impact statement under paragraph (2)(b), the risk-impact statement must incorporate an evaluation of the economic factors enumerated in paragraph (2)(c). If an economic-impact statement is prepared for a major rule subject to this subsection, the regulatory-impact statement must incorporate a consideration of that economic analysis.

(f) For rules adopted under a federally mandated program which are subject to this subsection, the agency may use risk-analysis information prepared by the federal agency to the extent that the federal analysis conforms to the requirements of paragraph (d).

(g) If it is determined that a risk analysis is not required under criteria established in this subsection, a statement declaring such must be issued to the Administrative Procedures Committee and entered into the record at the time the rule is adopted. Moreover, if the agency adopts a proposed rule even though the risk-impact statement and underlying data for the proposed rule demonstrate that the proposed rule is not the most scientifically sound and cost-effective means of protecting the public health and safety, the agency must notify the Administrative Procedures Committee of this fact within 60 days after the effective date of the rule.

(h) Failure to prepare the risk-impact statement required by this subsection and to properly publish notice thereof may serve as a basis upon which a rule may be invalidated as a result of this subsection. The estimates of risk, benefits, or costs performed for the risk-impact statement may not serve as grounds for determination of rule invalidity.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike all of lines 2 and 3 and insert: A bill to be entitled An act relating to environmental regulation; creating the Risk-Based Priority Council to recommend certain guidelines to the Governor, the Legislature, and agencies; providing membership of the council; requiring the council to submit reports; requiring agencies to cooperate with the council; providing for the council to be assigned to the Joint Legislative Management Committee for purposes of administration; providing for expiration of the council; amending s. 120.54, F.S.; defining the term "agency" for purposes of the act; requiring agencies to adopt risk-impact statements after a specified date for certain rules that are proposed for adoption, review, or amendment; specifying provisions that must be included in a risk-impact statement; providing that failure to prepare a risk-impact statement or properly publish notice may be the basis upon which to invalidate the rule; providing legislative findings and

Senators Brown-Waite and Latvala offered the following amendment which was moved by Senator Brown-Waite and adopted:

Amendment 2 (with Title Amendment)—On page 2, between lines 21 and 22, insert:

Section 2. Paragraphs (l) and (q) of subsection (2) of section 110.205, Florida Statutes, 1994 Supplement, are amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(l) All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, positions in the Department of Health and Rehabilitative Services and the Department of Corrections that are assigned primary duties of serving as the superintendent of an institution.~~, and~~ positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices as defined in s. 20.23(3)(d)3. and (4)(d)*; and positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator*. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

(q) All positions not otherwise exempt under this subsection which require as a prerequisite to employment: licensure as a physician pursuant to chapter 458, licensure as an osteopathic physician pursuant to chapter 459, licensure as a chiropractic physician pursuant to chapter 460, including those positions which are occupied by employees who are exempted from licensure pursuant to s. 409.352; *licensure as an engineer pursuant to chapter 471, which are supervisory positions;* or for 12 calendar months, which require as a prerequisite to employment that the employee have received the degree of Bachelor of Laws or Juris Doctor from a law school accredited by the American Bar Association and thereafter membership in The Florida Bar, except for any attorney who serves as a hearing officer pursuant to s. 120.65 or for hearings conducted pursuant to s. 120.57(1)(a). Unless otherwise fixed by law, the department shall set the salary and benefits for these positions in accordance with the rules established for the Selected Exempt Service.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 5, after the semicolon (;) insert: responsibility: amending 110.205, F.S., providing career service exemptions for certain positions;

On motion by Senator Burt, by two-thirds vote **CS for HB 855** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—4

Consideration of **SB 1426** and **SB 910** was deferred.

The Senate resumed consideration of—

SB 834—A bill to be entitled An act relating to road designation; designating the portion of State Road 990, known as Killian Drive, from U.S. 1 to State Road 874, a state historic highway; prohibiting state funds from being expended on certain alterations of the drive or adjacent structures; providing for the erection of suitable markers; providing an effective date.

—with pending **Amendment 1** by the Committee on Transportation which had been considered May 4.

Senator Gutman moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—In title, on page 1, line 20, after the semicolon (;) insert: designating a portion of West Flagler Street in Miami as "Benjamin Leon Way"; directing the Department of Transportation to erect suitable markers;

Amendment 1 as amended was adopted.

The Committee on Transportation recommended the following amendment which was moved by Senator Gutman:

Amendment 2—On page 2, line 1, strike everything after the enacting clause and insert:

Section 1. The portions of State Road 990 section 87064 - milepost 0.187 (S.R. 874) to section 87046 - milepost 2.917 (U.S. 1) is designated as a state historic highway.

Section 2. No state, county, city, or local funds shall be expended, nor shall the use of any Federal funds be approved by any public body or agency to alter the physical dimensions, location, or appearance of Killian Drive from U.S. 1 to State Road 874 or to erect, demolish, or alter the appearance of any structure thereto, with the exception of erections, demolitions, alterations, and restorations undertaken for the purpose of preserving or enhancing the historic or scenic value of the Drive and its surroundings. The Bureau of Historic Preservation of the Division of Historical Resources of the Department of State shall be consulted and offical approval obtained before any work is begun. Nothing in this section shall be construed to prevent the ordinary maintenance and repair of the Drive or structures appurtenant thereto, provided that the physical dimensions and location of the Drive and the appearance of any landscaping or structure appurtenant thereto are preserved, nor to prevent any work that is necessary for the preservation of public safety as determined by the agency having jurisdiction over the portion of the Drive involved. However, the preservation of the Drive and its surroundings shall take priority over considerations of traffic management, and "the preservation of public safety" shall not be construed to require alterations in the road when any alternative means of promoting safety, including more restrictive regulations, are available.

Section 3. Prior to the performance of any work necessary for the public health or safety that requires removal of any tree on Killian Drive, the involved agency having jurisdiction over that portion of Killian Drive shall hold an advertised public meeting to present findings of fact necessitating said work to the Bureau of Historic Preservation of the Division of Historical Resources of the Department of State which shall make the final determination.

Section 4. It is the intent of the legislature through the adoption of this act to promote the replanting of trees previously removed along Killian Drive. Historical societies and homeowners' associations may petition the Bureau of Historic Preservation of the Division of Historical Resources of the Department of State to replant such trees. As used in this act, replanting shall be liberally construed to mean similar trees in approximate locations.

Section 5. The Bureau of Historic Preservation of the Division of Historical Resources of the Department of State may provide for the erection of suitable markers along the drive.

Section 6. If any provisions of this act or the application thereof to any person or circumstance is held invalid, the invalid provision shall be severable from the remainder of this act which will continue to be given effect.

Section 7. This act shall take effect upon becoming a law.

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

Amendment 2A—On page 3, between lines 2 and 3, insert:

Section 4. (1) That portion of West Flagler Street between 12th Avenue and 13th Avenue in section 87053-001, from milepost 7.627 to milepost 7.522, in Miami is hereby designated as "Benjamin Leon Way."

(2) The Department of Transportation is directed to erect suitable markers designating "Benjamin Leon Way" as described in subsection (1).

(Renumber subsequent section.)

Amendment 2 as amended was adopted.

On motion by Senator Gutman, by two-thirds vote **SB 834** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

The Senate resumed consideration of—

HB 1499—A bill to be entitled An act relating to the regulation of onsite sewage treatment and disposal systems; amending s. 381.0065, F.S.; amending the definition of "available publicly-owned or investor-owned sewerage system"; defining the term "potable water line"; redefining an exemption; amending standards for the placement of onsite sewage treatment and disposal systems; providing for system compliance with specified rules; providing standards for design criteria and for performance criteria; providing for local public health units to approve or disapprove systems and to refer disapprovals to the Department of Health and Rehabilitative Services for a further determination; providing deadlines for such reviews; providing for written notification to the applicant of the department's determination and for the applicant's opportunity to pursue a variance or seek review; providing a standard for water table determinations and soil suitability modifying the application submission process; requiring connection of certain onsite sewage treatment and disposal systems to available public-owned or investor-owned sewerage systems under certain circumstances; providing application; providing an exception; providing criteria for sewer service and sewer services charges relating to certain onsite sewage systems; amending s. 381.0066, F.S., to conform cross-references; amending s. 381.0068, F.S.; redesignating the technical review panel as the technical review and advisory panel; providing duties of the panel; providing for panel membership, terms, meetings, and reimbursement; requiring the department to present proposed rules to the panel for comment; requiring the department to keep minutes of panel meetings; repealing s. 381.00655, F.S., relating to connection of existing onsite sewage treatment and disposal systems to central sewerage systems; providing an effective date.

—with pending **Amendment 1** by Senator Bankhead, as amended.

Senator Dyer moved the following amendment to **Amendment 1** which was adopted:

Amendment 1C (with Title Amendment)—On page 22, between lines 25 and 26, insert:

Section 4. Section 381.0098, Florida Statutes, 1994 Supplement, is amended to read:

381.0098 Biomedical waste.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature to protect the public health by establishing standards for the safe packaging, storage, treatment, and disposal of biomedical waste. The Department of Health and Rehabilitative Services shall regulate the packaging, storage, and treatment of biomedical waste which occurs at facilities where biomedical waste is generated *and mobile treatment units which provide onsite treatment*. The Department of Environmental Protection shall regulate biomedical waste from the point at which the waste is transported from the facility where it was generated. The Department of Environmental Protection shall also regulate onsite and offsite incineration of biomedical waste and its offsite transport, storage, treatment, or disposal. *Consistent with the foregoing, the Department of Health and Rehabilitative Services shall have the exclusive authority to establish treatment efficacy standards for biomedical waste and the Department of Environmental Protection shall have the exclusive authority to establish statewide standards relating to environmental impacts, if any, of treatment including, but not limited to, water discharges and air emissions.* An interagency agreement between the Department of Environmental Protection and the Department of Health and Rehabilitative Services shall be developed to ensure maximum efficiency in coordinating, administering, and regulating biomedical wastes.

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

(a) "Biomedical waste" means any solid or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary waste which contains human-disease-causing agents; discarded dis-

posable sharps; human blood, blood products, and body fluids; and other materials which in the opinion of the department represent a significant risk of infection to persons outside the generating facility. The term does not include human remains that are disposed of by persons licensed under chapter 470.

(b) "Biomedical waste generator" means a facility or person that produces or generates biomedical waste. The term includes, but is not limited to, hospitals, skilled nursing or convalescent hospitals, intermediate care facilities, clinics, dialysis clinics, dental offices, health maintenance organizations, surgical clinics, medical buildings, physicians' offices, laboratories, veterinary clinics, and funeral homes.

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

(d) "Sharps" mean those biomedical wastes which as a result of their physical characteristics are capable of puncturing, lacerating, or otherwise breaking the skin when handled.

(e) "Treatment" means any process, including steam *treatment* ~~sterilization~~, chemical treatment, microwave shredding, and incineration, which changes the character or composition of biomedical waste so as to render it noninfectious.

(3) OPERATING STANDARDS.—The department shall adopt rules necessary to protect the health, safety, and welfare of the public and to carry out the purpose of this section. Such rules shall address, but need not be limited to, the packaging of biomedical waste, including specific requirements for the segregation of the waste at the point of generation; the safe packaging of sharps; the placement of the waste in containers that will protect waste handlers and the public from exposure; the appropriate labeling of containers of waste to identify the generator; and the storage, treatment, and disposal of biomedical wastes at the facilities in which such waste is generated.

(4) PERMITS AND FEES.—

(a) All biomedical waste generators *and mobile treatment units* shall, *prior to commencing operation,* obtain an annual permit from the department, except that a biomedical waste generator generating less than 25 pounds of biomedical waste in each 30-day period shall be exempt from the registration and fee requirements of this subsection. Application for such permit shall be made on an application form provided by the department, providing the following information:

1. Type and estimated weight of biomedical waste expected to be generated *or treated.*

2. Brief description of how biomedical waste shall be handled within the facility.

3. Method of disposition of biomedical waste generated at the facility.

4. Other pertinent information determined necessary by the department to fulfill the requirements of this section.

(b) Once the department determines that the biomedical waste generator *or mobile treatment unit* is capable of operating in compliance with this section and the rules adopted under this section *and, if applicable, pursuant to chapter 403,* the department shall grant the operating permit.

(c) If the department determines that the biomedical waste generator *or mobile treatment unit* does not meet the provisions outlined in this section or the rules adopted under this section, the department shall deny the application for the operating permit pursuant to provisions of chapter 120. Such denial shall be in writing and shall list the circumstances for denial. Upon correction of such violations the operating permit shall be issued.

(d) The operating permit shall not be transferred from one owner to another. When the ownership or name of a biomedical waste generator *or mobile treatment unit* is changed and continues to operate, the new owner shall apply to the department, upon forms provided by the department, for issuance of an operating permit.

(e) The department shall establish a schedule of fees for the annual operating permit. Fees assessed under this section shall be in an amount sufficient to meet the costs of carrying out the provisions of this section and rules adopted under this section. The fee schedule for an annual operating permit shall not be less than $50 or more than $200. The department shall assess the minimum fees provided in this subsection until a fee schedule is promulgated by rule of the department. Facilities owned and operated by the state shall be exempt from the payment of any fees.

(f) Fees collected by the department in accordance with provisions of this section and the rules adopted under this section shall be deposited into a trust fund administered by the department for the payment of costs incurred in the administration of this section.

(5) ENFORCEMENT AND PENALTIES.—Any person or public body in violation of this section or rules adopted under this section is subject to penalties provided in ss. 381.0012, 381.0025, and 381.0061. However, an administrative fine not to exceed $2,500 may be imposed for each day such person or public body is in violation of this section.

(6) PREEMPTION OF AUTHORITY TO REGULATE.—The regulation and inspection of biomedical waste generators *and mobile treatment units* is hereby preempted by the state. Nothing in this chapter shall be construed to affect a local government's zoning and land use authority over biomedical waste generators *or mobile treatment units.* Acute care hospitals, licensed under chapter 395, which utilize a certified onsite treatment process involving grinding and *treatment* ~~sterilization~~, may dispose of such treated biomedical waste in the normal municipal solid waste stream upon notifying the local governments that are responsible for solid waste collection and disposal. Rules shall also be adopted to implement the provisions of subsection (3) amended by this act.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 24, line 24, after the semicolon (;) insert: amending s. 381.0098, F.S.; providing for the Department of Health and Rehabilitative Services to regulate mobile onsite treatment units; providing that the Department of Health and Rehabilitative Services establish treatment efficiency standards for biomedical waste and the Department of Environmental Protection to establish standards relating to environmental impacts; requiring mobile treatment units to obtain a permit;

Senator Harden moved the following amendment to **Amendment 1** which was adopted:

Amendment 1D (with Title Amendment)—On page 22, between lines 25 and 26, insert:

Section 4. Effective upon becoming a law and operating retroactively to July 1, 1990, subsections (6), (7), and (8) are added to section 259 101, Florida Statutes, 1994 Supplement, to read:

259.101 Florida Preservation 2000 Act.—

(6) DISPOSITION OF LANDS.—

(a) Any lands acquired pursuant to paragraph (3)(a), paragraph (3)(c), paragraph (3)(d), paragraph (3)(e), paragraph (3)(f), or paragraph (3)(g) may be disposed of by the Board of Trustees of the Internal Improvement Trust Fund in accordance with the provisions and procedures set forth in s. 253.034(5), and lands acquired pursuant to paragraph (3)(b) may be disposed of by the owning water management district in accordance with the procedures and provisions set forth in ss. 373.056 and 373.089 provided such disposition also shall satisfy the requirements of paragraphs (b) and (c).

(b) Before land can be determined to be of no further benefit to the public as required by s. 253.034(5), or to be no longer required for its purposes under s. 373.056(4), whichever may be applicable, there shall first be a determination by the Board of Trustees of the Internal Improvement Trust Fund, or, in the case of water management district lands, by the owning water management district, that such land no longer needs to be preserved in furtherance of the intent of the Florida Preservation 2000 Act. Any lands eligible to be disposed of under this procedure also may be used to acquire other lands through an exchange of lands, provided such lands obtained in an exchange are described in the same paragraph of subsection (3) as the lands disposed.

(c) Notwithstanding paragraphs (a) and (b), no such disposition of land shall be made if such disposition would have the effect of causing all or any portion of the interest on any revenue bonds issued to fund the Florida Preservation 2000 Act to lose their exclusion from gross income for purposes of federal income taxation. Any revenue derived from the disposal of such lands may not be used for any purpose except

for deposit into the Florida Preservation 2000 Trust Fund for recredit to the share held under subsection (3), in which such disposed land is described.

(7) ALTERNATE GOVERNMENTAL USE OF ACQUIRED LANDS.—

(a) The Board of Trustees of the Internal Improvement Trust Fund, or, in the case of water management district lands, the owning water management district, may authorize the granting of a lease, easement, or license for the use of any lands acquired pursuant to subsection (3), for any governmental use permitted by s. 17, Art. IX of the State Constitution, 1885, as adopted by s. 9(a), Art. XII of the State Constitution and which is determined by the board or the owning water management district to be compatible with the purposes for which such lands were acquired.

(b) Notwithstanding the provisions of paragraph (a), no such lease, easement, or license shall be entered into by the Department of Environmental Protection or other appropriate state agency if the granting of such lease, easement, or license would adversely affect the exclusion of the interest on any revenue bonds issued to fund the acquisition of the affected lands from gross income for federal income tax purposes, as described in s. 375.045(4).

(8) PLAN FOR DISPOSAL AND USE OF LANDS.—The Board of Trustees of the Internal Improvement Trust Fund may adopt a plan for a specific geographic area authorizing the disposal and use of lands acquired pursuant to subsection (3) which meets the requirements of subsections (6) and (7).

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike all of lines 2 and 3 and insert: amending s. 259.101, F.S.; revising provisions with respect to the Florida Preservation 2000 Act to provide for the disposition of certain lands and to provide for the alternate governmental use of acquired lands; providing for retroactive application;

Senator Brown-Waite moved the following amendments to **Amendment 1** which were adopted:

Amendment 1E (with Title Amendment)—On page 22, between lines 25 and 26, insert:

Section 2. Effective July 1, 1995, section 403.707, Florida Statutes, 1994 Supplement, is amended to read:

403.707 Permits.—

(1) *A* ~~No~~ solid waste management facility may *not* be operated, maintained, constructed, expanded, modified, or closed without an appropriate and currently valid permit issued by the department. ~~Effective October 1, 1989,~~ Solid waste construction permits issued under this section may include any permit conditions necessary to achieve compliance with the recycling requirements of this act. The department shall pursue reasonable timeframes for closure and construction requirements, considering pending federal requirements and implementation costs to the permittee. The department shall adopt a rule establishing performance standards for construction and closure of solid waste management facilities. The standards *must* ~~shall~~ allow flexibility in design and consideration for site-specific characteristics.

(2) Except as provided in s. 403.722(6), *a* ~~no~~ permit *is not required* under this section ~~is required~~ for the following, *if* ~~provided~~ no public nuisance or any condition adversely affecting the environment or public health is created and the activity does not violate other state or local laws, ordinances, rules, regulations, or orders:

(a) Disposal by persons of solid waste resulting from their own activities on their own property, *if the* ~~provided such~~ waste is either from their residential property or is rocks, soils, trees, tree remains, and other vegetative matter *that* ~~which~~ normally result from land development operations.

(b) Storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, or property subject to a homeowners or maintenance association for which the person contributes association assessments, if the solid waste in such containers is collected at least once a week.

(c) Disposal by persons of solid waste resulting from their own activities on their property, *if* ~~provided~~ the environmental effects of such disposal on groundwater and surface waters are:

1. Addressed or authorized by a site certification order issued under part II of this chapter or a permit issued by the department pursuant to this chapter or rules adopted pursuant thereto; or

2. Addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the department.

~~(d) Solid waste disposal areas limited solely to the disposal of construction and demolition debris, provided that all such areas must be covered, graded, and vegetated as necessary when disposal is completed. For situations where the department determines that additional regulation of offsite disposal is appropriate, the department shall, by December 31, 1988, initiate rulemaking to provide for a general permit pursuant to s. 403.814 for disposal of construction and demolition debris for offsite disposal areas. The department shall not require the applicant to publish the notice described in s. 403.814(3). The exemption under this paragraph is superseded by such general permit 90 days after implementing rules become effective, and shall remain superseded so long as these rules remain in effect. The department is authorized to delegate its authority under this paragraph to local governments where appropriate. Such general permit shall include, at a minimum, the following requirements:~~

~~1. Public access to the disposal site is controlled through fencing or other appropriate means until the site is closed as provided for in subparagraph 4.~~

~~2. Provisions must be made for proper disposal of solid waste which is not construction and demolition debris.~~

~~3. The department must have been advised of the location of the site and must have been given permission to inspect the site during normal business hours.~~

~~4. Provisions must be made for final cover, grading, and vegetation to prevent erosion.~~

(d)~~(e)~~ Disposal by persons of solid waste resulting from their own activities on their own property, provided that such disposal occurred prior to October 1, 1988.

(e)~~(f)~~ Disposal of solid waste resulting from normal farming operations as defined by department rule. Polyethylene agricultural plastic, damaged, nonsalvageable, untreated wood pallets, and packing material that cannot be feasibly recycled, which are used in connection with agricultural operations related to the growing, harvesting, or maintenance of crops, may be disposed of by open burning, *if* ~~provided that~~ no public nuisance or any condition adversely affecting the environment or the public health is created thereby and ~~that~~ state or federal ambient air quality standards are not violated.

(f)~~(g)~~ The use of clean debris as fill material in any area. However, this paragraph does not exempt any person from obtaining a dredge and fill permit from the department, nor does it affect a person's responsibility to dispose of clean debris in permitted areas if it is not to be used as fill material.

(g)~~(h)~~ Compost operations that produce less than 50 cubic yards of compost per year when the compost produced is used on the property where the compost operation is located.

(3) All applicable provisions of ss. 403.087 and 403.088, relating to permits, apply to the control of solid waste management facilities.

(4) When application for a construction permit for a Class I or Class II solid waste disposal area, *or a construction and demolition debris disposal area,* is made, ~~it is~~ the ~~duty of the~~ department *shall* ~~to~~ provide a copy of the application, within 7 days after filing, to the water management district *and to the county* having jurisdiction where the area is to be located. The water management district *and the county* may prepare ~~an~~ advisory *reports* ~~report~~ as to the impact on water *and other* resources. *These reports* ~~This report~~ shall contain the district's *and county's* recommendations as to the disposition of the application and shall be submitted to the department no later than 30 days prior to the deadline for final agency action by the department. However, the failure of the department, ~~or~~ the water management district, *or the county* to comply with ~~the provisions of~~ this subsection shall not be the basis for the denial, revocation, or remand of any permit or order issued by the department.

(5) The department may not issue a construction permit pursuant to this part for a new solid waste landfill within 3,000 feet of Class I surface waters.

(6) The department may issue a construction permit pursuant to this part only to a solid waste management facility that provides the conditions necessary to control the safe movement of wastes or waste constituents into surface or ground waters or the atmosphere and that will be operated, maintained, and closed by qualified and properly trained personnel. Such facility must, if necessary:

(a) Use natural or artificial barriers *that* ~~which~~ are capable of controlling lateral or vertical movement of wastes or waste constituents into surface or ground waters.

(b) Have a foundation or base that is capable of providing support for structures and waste deposits and capable of preventing foundation or base failure due to settlement, compression, or uplift.

(c) Provide for the most economically feasible, cost-effective, and environmentally safe control of leachate, gas, stormwater, and disease vectors and prevent the endangerment of public health and the environment.

Open fires, air-curtain incinerators, or trench burning may not be used as a means of disposal at a solid waste management facility, unless permitted by the department under s. 403.087.

(7) Prior to application for a construction permit, an applicant shall designate to the department temporary backup disposal areas or processes for the resource recovery facility. Failure to designate temporary backup disposal areas or processes shall result in a denial of the construction permit.

(8) Any person who transports biomedical waste within the state must register with the department prior to engaging in the transport of biomedical waste.

(9) The department may refuse to issue a permit to an applicant who by past conduct in this state has repeatedly violated pertinent statutes, rules, or orders or permit terms or conditions relating to any solid waste management facility and who is deemed to be irresponsible as defined by department rule. For the purposes of this subsection, an applicant includes the owner or operator of the facility, or if the owner or operator is a business entity, a parent of a subsidiary corporation, a partner, a corporate officer or director, or a stockholder holding more than 50 percent of the stock of the corporation.

(10) On the same day of filing with the department of an application for any construction or renovation permit for the treatment of biomedical waste, other than a general permit, which the department may require by rule, the applicant shall notify each city and county within 1 mile of the facility of the filing of the application and shall publish notice of the filing of the application. The applicant shall publish a second notice of the filing within 14 days after the date of filing. Each notice shall be published in a newspaper of general circulation in the county in which the facility is located or is proposed to be located. Notwithstanding ~~the provisions of~~ chapter 50, for purposes of this section, a "newspaper of general circulation" *means* ~~shall be~~ the newspaper within the county in which the installation or facility is proposed, which has the largest daily circulation in that county, and has its principal office in that county. If the newspaper with the largest daily circulation has its principal office outside the county, the notice *must* ~~shall~~ appear in both the newspaper with the largest daily circulation in that county, and a newspaper authorized to publish legal notices in that county. The notice *must* ~~shall~~ contain:

(a) The name of the applicant and a brief description of the facility and its location.

(b) The location of the application file and when it is available for public inspection.

The notice shall be prepared by the applicant and *must* ~~shall~~ comply with the following format:

Notice of Application

The Department of Environmental Protection announces receipt of an application for a permit from (name of applicant) to (brief description of project). This proposed project will be located at (location) in (county) (city)

This application is being processed and is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at (name and address of office).

(11) A permit, other than a general permit, which the department may require by rule, for the treatment of biomedical waste, may not be transferred by the permittee to any other entity, except in conformity with the requirements of this subsection.

(a) Within 30 days after the sale or legal transfer of a permitted facility, the permittee shall file with the department an application for transfer of the permits on such form as the department *establishes* ~~shall establish~~ by rule. The form must be completed with the notarized signatures of both the transferring permittee and the proposed permittee.

(b) The department shall approve the transfer of a permit unless it determines that the proposed permittee has not provided reasonable assurances that the proposed permittee has the administrative, technical, and financial capability to properly satisfy the requirements and conditions of the permit, as determined by department rule. The determination *is* ~~shall be~~ limited solely to the ability of the proposed permittee to comply with the conditions of the existing permit, and it *does* ~~shall~~ not concern the adequacy of the permit conditions. If the department proposes to deny the transfer, it shall provide both the transferring permittee and the proposed permittee a written objection to such transfer together with notice of a right to request a proceeding on such determination under chapter 120.

(c) Within 90 days after receiving a properly completed application for transfer of a permit, the department shall issue a final determination. The department may toll the time for making a determination on the transfer by notifying both the transferring permittee and the proposed permittee that additional information is required to adequately review the transfer request. Such notification shall be provided within 30 days after receipt of an application for transfer of the permit, completed pursuant to paragraph (a). If the department fails to take action to approve or deny the transfer within 90 days after receipt of the completed application or within 90 days after receipt of the last item of timely requested additional information, the transfer *is* ~~shall be~~ deemed approved.

(d) The transferring permittee is encouraged to apply for a permit transfer well in advance of the sale or legal transfer of a permitted facility. However, the transfer of the permit *is* ~~shall~~ not ~~be~~ effective prior to the sale or legal transfer of the facility.

(e) Until the transfer of the permit is approved by the department, the transferring permittee and any other person constructing, operating, or maintaining the permitted facility *is* ~~shall be~~ liable for compliance with the terms of the permit. ~~Nothing in~~ This section *does not* ~~shall~~ relieve the transferring permittee of liability for corrective actions that may be required as a result of any violations occurring prior to the legal transfer of the permit.

(12) The department shall, by rule, establish at least one separate category for issuing permits to solid waste management facilities that receive only solid waste that is not expected to produce leachate which, if discharged, could reasonably be expected to result in violations of the department's water quality standards or criteria. This category must include facilities that accept only construction and demolition debris, or construction and demolition debris mixed with yard trash, paper, plastics, cardboard, glass, furniture other than appliances, waste tires, and other similar materials. The department shall impose design, operation, monitoring, and closure requirements that are necessary to minimize the adverse effects on the environment posed by such a facility. However, the department may not require the facility to install a liner or leachate-collection system unless it determines, on a case-by-case basis, that such features are necessary to protect the public health and the environment due to site-specific considerations. The department may, by rule, exempt a facility from all or some of the requirements of ss. 403.708(14)(c), 403.7125, and 403.716. The department is encouraged to establish permitting procedures that allow and promote recycling at a facility permitted under this subsection. Any rule proposed by the department pursuant to this subsection which regulates solid waste management facilities that accept construction and demolition debris shall be developed no later than November 1, 1995, and shall not take effect until ratified by the Legislature.

(a) In considering whether a liner or leachate-collection system is required at a facility, the department shall consider:

1. Geological or hydrogeological conditions at the site which allow direct discharge of leachate to an aquifer that may be used as a source of drinking water;

2. Proximity to existing or planned drinking water systems;

3. Proximity of surface waters that could be impacted by a leachate discharge;

4. The planned size and final elevation of the disposal area; and

5. Any history of violations of department rules by the owner or operator of the site which create the reasonable expectation that prohibited waste may be disposed of at the proposed facility.

(b) If the department determines by rule that the operator of the facility must provide proof of financial responsibility, the department may specify what types of financial mechanisms are appropriate and may exempt a facility from this requirement based upon size or design characteristics.

(c) If the department determines by rule that the operator of a facility must undergo training, the department may specify a training course and schedule that is different than that required for operators of other facilities. The deadlines specified in s. 403.716(3) do not apply to a facility permitted under this section.

(13) The department may, by rule, exempt from permitting requirements, or may require a general permit, for a facility that receives only clean debris, yard trash, or similar materials. Any such exemption or general permit may be conditioned on the size or location of the facility as well as the type or amount of solid waste accepted for disposal.

(14)~~(12)~~ The department shall review all permit applications for any designated Class I solid waste disposal facility. As used in this subsection, the term "designated Class I solid waste disposal facility" means any facility that is, as of May 12, 1993, a solid waste disposal facility classified as an active Class I landfill by the department, that is located in whole or in part within 1,000 feet of the boundary of any municipality, but that is not located within any county with an approved charter or consolidated municipal government, is not located within any municipality, and is not operated by a municipality. The department shall not permit vertical expansion or horizontal expansion of any designated Class I solid waste disposal facility unless the application for such permit was filed before January 1, 1993, and *a* ~~no~~ solid waste management facility may *not* be operated which is a vertical expansion or horizontal expansion of a designated Class I solid waste disposal facility. As used in this subsection, the term "vertical expansion" means any activity that will result in an increase in the height of a designated Class I solid waste disposal facility above 100 feet National Geodetic Vertical Datum, except solely for closure, and the term "horizontal expansion" means any activity that will result in an increase in the ground area covered by a designated Class I solid waste disposal facility, or if within 1 mile of a designated Class I solid waste disposal facility, any new or expanded operation of any solid waste disposal facility or area, or of incineration of solid waste, or of storage of solid waste for more than 1 year, or of composting of solid waste other than yard trash.

Section 3. Except as otherwise provided herein, this act shall take effect October 1, 1995.

And the title is amended as follows:

In title, on page 2, line 12, after "systems" insert: amending s. 403.707, F.S.; deleting an exemption from solid waste management facility permit requirements provided for areas limited to the disposal of construction and demolition debris; requiring the Department of Environmental Protection to establish a separate category for issuing permits for solid waste management facilities that accept construction and demolition debris; requiring the department to provide copies of certain applications to the affected county; requiring the department to adopt rules; providing for legislative approval of rules; authorizing the department to require the operator of a facility to provide proof of financial responsibility; authorizing the department to require the operator to undergo training; providing for certain exceptions to the permit requirements; creating s.

Amendment 1F—On page 23, strike all of lines 14 and 15 and insert: An act relating to pollution control; amending

Amendment 1 as amended was adopted.

On motion by Senator Bankhead, by two-thirds vote **HB 1499** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—3

The Senate resumed consideration of—

SB 1024—A bill to be entitled An act relating to the designation of state buildings; designating the Physical Therapy Educational Building of the Health Science Center at the University of Florida as the Ruth K. and Shepard Broad Physical Therapy Educational Building; authorizing the University of Florida to erect appropriate markers; providing an effective date.

—which had been considered May 4. Pending **Amendment 1** by Senator Williams was adopted.

On motion by Senator Williams, by two-thirds vote **SB 1024** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Sullivan, by two-thirds vote **CS for HB 503** was withdrawn from the Committees on Higher Education; Rules and Calendar; and Ways and Means.

On motion by Senator Sullivan—

CS for HB 503—A bill to be entitled An act relating to state universities; creating s. 240.2995, F.S.; authorizing the establishment of university health services support organizations; providing requirements; requiring Board of Regents' rules; requiring postaudits; providing that reports and meetings shall be public records; providing an effective date.

—a companion measure, was substituted for **CS for SB 204** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **CS for HB 503** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 1020—A bill to be entitled An act relating to women's health care; amending ss. 409.9122, 440.134, and 641.19, F.S.; providing for designation of an obstetrician/gynecologist as a primary care physician; reenacting s. 641.495(3), F.S., relating to health maintenance organization certificate requirements, to incorporate the amendment to s. 641.19, F.S., in a reference; providing an effective date.

—was read the second time by title.

The Committee on Health Care recommended the following amendments which were moved by Senator Brown-Waite and adopted:

Amendment 1 (with Title Amendment)—On page 2, strike all of lines 9-24 and renumber subsequent sections.

And the title is amended as follows:

In title, on page 1, line 3, strike "440.134, and"

Amendment 2—On page 2, strike all of lines 6-8 and insert: of care provided. *Each female recipient may select as her primary care provider an obstetrician/gynecologist who has agreed to participate as a Medi-Pass primary care case manager.*

Amendment 3—On page 3, strike all of lines 8-10 and insert: necessary. *Each female subscriber may select as her primary physician an obstetrician/gynecologist who has agreed to serve as a primary physician and is in the health maintenance organization's provider network.*

Amendment 4 (with Title Amendment)—On page 3, between lines 24 and 25, insert:

Section 5. Subsection (26) is added to section 408.701, Florida Statutes, to read:

408.701 Community health purchasing; definitions. As used in ss. 408.70–408.706, the term:

(26) "Primary care physician" means a physician licensed under chapter 458 or chapter 459 who practices family medicine, general internal medicine, general pediatrics, or general obstetrics/gynecology.

And the title is amended as follows:

In title, on page 1, line 9, after the semicolon (;) insert: amending s. 408.701, F.S.; defining the term "primary care physician"

On motion by Senator Brown-Waite, by two-thirds vote **SB 1020** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

SENATOR SILVER PRESIDING

CS for SB 220—A bill to be entitled An act relating to patient brokering; creating s. 817.505, F.S.; specifying unlawful acts constituting patient brokering; providing exemptions; providing criminal and civil penalties; providing for injunctive relief; providing for actions by the Attorney General or state attorneys; providing for recovery of certain expenses; providing an effective date.

—was read the second time by title.

The Committee on Commerce and Economic Opportunities recommended the following amendments which were moved by Senator Forman and adopted:

Amendment 1—On page 1, line 25, after the period (.) insert: It is unlawful for any person, including those persons whose activities are otherwise exempt under subsection (2) to coerce through economic reprisal any person to enter into or refuse to enter into an agreement for referring or soliciting patients or patronage from a person or entity licensed, certified, or registered by the Division of Health Quality Assurance of the Agency for Health Care Administration or the Department of Health and Rehabilitative Services.

Amendment 2—On page 2, strike all of lines 25 and 26 and insert: registry;

(j) Referrals from or payments to a health care referral company that provides to its customers information and referrals in regard to discounted health care services, when the customer pays a fee to the referral company, the referral company receives no referral fee directly or indirectly from any health care provider, as defined in s. 408.07, and the referral company itself provides no health care services; or

(k) Referrals from or payments by a provider to a

On motion by Senator Forman, by two-thirds vote **CS for SB 220** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37 Nays—None

On motion by Senator Jones, by two-thirds vote **CS for HB 595** was withdrawn from the Committees on Commerce and Economic Opportunities; Judiciary; and Ways and Means.

On motion by Senator Jones—

CS for HB 595—A bill to be entitled An act relating to labor regulations; creating part II of chapter 448, F.S.; creating the "Labor Pool Act"; providing legislative intent; providing definitions; providing exclusions; providing duties and rights with respect to labor pools; providing remedies, damages, and costs; providing an effective date.

—a companion measure, was substituted for **SB 980** and read the second time by title. On motion by Senator Jones, by two-thirds vote **CS for HB 595** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

SB 562—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.055, F.S.; authorizing school boards to levy a school capital outlay surtax; requiring referendum approval; providing requirements for such levy; providing for use of the proceeds; requiring any school board imposing the surtax to freeze noncapital local school property taxes for a specified period; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **SB 562** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—1

CS for SB 1658—A bill to be entitled An act relating to the practice of medical physics; creating the "Florida Medical Physicists Act"; providing a declaration of legislative policy; providing definitions; creating the Advisory Council of Medical Physicists in the Agency for Health Care Administration; providing for council membership, terms, term limitations, qualifications, removal, validity of actions in certain circumstances, reimbursement of members for travel expenses, election of officers, frequency of meetings, administrative support, and rulemaking and other duties; requiring licensure for engaging in the practice of medical physics; requiring separate licensure for each specialty; providing for the Agency for Health Care Administration to make rules relating to licensure and to set fees; providing license-application procedures; providing for the expiration and renewal of licenses; providing penalties for late renewal; prescribing requirements for licensure; allowing the agency to refuse to issue or renew a license, to suspend or revoke a license, or to reprimand a licensee for specified violations; allowing the agency to establish fees by rule; providing for the disposition of the fee proceeds; providing penalties for violations; providing guidelines for setting the amount of fines; exempting certain persons; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendment which was moved by Senator Forman and adopted:

Amendment 1 (with Title Amendment)—On page 13, between lines 5 and 6, insert:

Section 2. There is hereby appropriated to the Agency for Health Care Administration from the Health Care Trust Fund the sum of $54,250 for fiscal year 1995-1996.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 2, line 1, after "persons;" insert: providing an appropriation;

Senator Wexler moved the following amendments which were adopted:

Amendment 2—On page 4, line 22, through page 5, line 5, strike all of said lines and insert:

(4) COUNCIL.—The Advisory Council of Medical Physicists is created in the Agency for Health Care Administration to regulate the practice of medical physics in this state.

(a) The council shall be composed of seven members appointed by the director as follows:

1. A licensed medical physicist who specializes in diagnostic radiological physics.

2. A licensed medical physicist who specializes in therapeutic radiological physics.

3. A licensed medical physicist who specializes in medical nuclear radiological physics.

4. A physician who is board certified by the American Board of Radiology or its equivalent.

5. A physician who is board certified by the American Osteopathic Board of Radiology or its equivalent.

6. A physician who is board certified by the American Board of Chiropractic Radiology or its equivalent.

7. A consumer member who is not, and has never been, licensed as a medical physicist or licensed in any closely related profession.

Amendment 3—On page 7, between lines 9 and 10, insert:

(n) The council may conduct its meetings electronically.

Senator Ostalkiewicz moved the following amendment which was adopted:

Amendment 4—On page 13, between lines 5 and 6, insert:

Section 2. Notwithstanding the provisions of section 3 of this act, any medical physicist who, as of the effective date of this act, has practiced medical physics for 5 years or longer is entitled to continue to so practice and need not be licensed as a medical physicist.

(Renumber subsequent sections.)

Senator Forman moved the following amendment which was adopted:

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

Section 1. Section 458.347, Florida Statutes, 1994 Supplement, is amended to read:

458.347 Physician assistants.—

(1) LEGISLATIVE INTENT.—

(a) The purpose of this section is to encourage more effective utilization of the skills of physicians or groups of physicians by enabling them to delegate health care tasks to qualified assistants when such delegation is consistent with the patient's health and welfare.

(b) In order that maximum skills may be obtained within a minimum time period of education, a physician assistant shall be specialized to the extent that he can operate efficiently and effectively in the specialty areas in which he has been trained or is experienced.

(c) The purpose of this section is to encourage the utilization of physician assistants by physicians and to allow for innovative development of programs for the education of physician assistants.

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

(a) "Agency" means the Agency for Health Care Administration.

~~(a) "Board" means the Board of Medicine.~~

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

(b)~~(c)~~ "Approved program" means a program, formally approved by the *boards* ~~board~~, for the education of physician assistants.

(c) "Boards" means the Board of Medicine and the Board of Osteopathic Medicine.

(d) "Council" means the Council on Physician Assistants.

(e)~~(d)~~ "Trainee" means a person who is currently enrolled in an approved program.

(f)~~(e)~~ "Physician assistant" means a person who is a graduate of an approved program or its equivalent or meets standards approved by the *boards* ~~board~~ and is certified to perform medical services delegated by the supervising physician.

(g)~~(f)~~ "Supervision" means responsible supervision and control. Except in cases of emergency, supervision requires the easy availability or physical presence of the licensed physician for consultation and direction of the actions of the physician assistant. For the purposes of this definition, the term "easy availability" includes the ability to communicate by way of telecommunication. The *boards* ~~board~~ shall establish rules as to what constitutes responsible supervision of the physician assistant.

(h)~~(g)~~ "Proficiency examination" means an entry-level examination administered by the National Commission on Certification of Physician Assistants.

(i) "Continuing medical education" means courses recognized and approved by the boards, the American Academy of Physician Assistants, the American Medical Association, the American Osteopathic Association, or the Accreditation Council on Continuing Medical Education.

(3) PERFORMANCE OF SUPERVISING PHYSICIAN.—Each physician or group of physicians who supervises a certified physician assistant must be qualified in the medical areas in which the physician assistant is to perform and shall be individually or collectively responsible and liable for the performance and the acts and omissions of the physician assistant. A physician may not *supervise* ~~have under his supervision~~ more than *four* ~~two~~ currently certified physician assistants *at any one time.*

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(a) The *boards* ~~board~~ shall adopt, by rule, the general principles that supervising physicians must use in developing the scope of practice of a physician assistant under direct supervision and under indirect supervision. These principles shall recognize the diversity of both specialty and practice setting in which physician assistants are used.

(b) ~~Nothing in~~ This chapter *does not* ~~shall~~ prevent third-party payers from reimbursing employers of physician assistants for services rendered by certified physician assistants.

(c) Certified physician assistants may not be denied clinical hospital privileges, except for cause, so long as the supervising physician is a staff member in good standing.

(d) A supervisory physician may delegate to a certified physician assistant, pursuant to a written protocol, the authority to act according to ~~the provisions of~~ s. 154.04(1)(d). Such delegated authority *is* ~~shall be~~ limited to the supervising physician's practice in connection with a county public health unit as defined and established pursuant to chapter 154. *The boards shall adopt rules governing the supervision of physician assistants by physicians in county public health units.*

(e) A supervisory physician may delegate to a fully certified physician assistant the authority to prescribe any medication used in the supervisory physician's practice if such medication is listed on the formulary created pursuant to paragraph (f). A fully certified physician assistant may only prescribe such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that he is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed by the physician assistant.

2. The supervisory physician must notify the *agency* ~~board~~ of *his* ~~such~~ intent to delegate, on *an agency-approved* ~~a board-approved~~ form, before delegating such authority and with each certification renewal application filed by the physician assistant.

3. The physician assistant must file with the *agency* ~~board~~, before commencing to prescribe, evidence that he has completed a continuing medical education course of at least 3 classroom hours in prescriptive practice, conducted by an accredited program approved by the *boards* ~~board~~, which course covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs, *or evidence that he has received education comparable to the continuing education course as part of an accredited physician assistant training program.* Evidence of *having completed* ~~completion of~~ an additional 3-hour *continuing education* course, *or having received comparable education,* during the certificate period must be submitted by a physician assistant with each certification renewal application.

4. The physician assistant must file with the *agency* ~~board~~, before commencing to prescribe, evidence that the physician assistant has a minimum of 3 months of clinical experience in the specialty area of the supervising physician.

5. The physician assistant must file with the *agency* ~~board~~ evidence that he has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each certification renewal application.

6. The *agency* ~~board~~ shall issue certification and a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements.

7. The prescription must be written in a form *that* ~~which~~ complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. The prescription must be filled in a pharmacy permitted under chapter 465 and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number *creates* ~~shall create~~ a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

8. The physician assistant must note the prescription in the appropriate medical record, and the supervisory physician must review and sign each notation. For dispensing purposes only, the failure of the supervisory physician to comply with these requirements *does* ~~shall~~ not affect the validity of the prescription.

9. This paragraph does not prohibit a supervisory physician *from* delegating to a physician assistant the authority to order medication for a hospitalized patient of the supervisory physician.

~~Nothing in~~ This paragraph *does not* ~~shall~~ apply to facilities licensed pursuant to chapter 395.

(f)1. There is ~~hereby~~ created a five-member committee appointed by the *Director of Health Care Administration* ~~secretary~~. The committee *must* ~~shall~~ be composed of one fully certified physician assistant certified pursuant to this section or s. 459.022, two physicians licensed pursuant to this chapter, one of whom supervises a fully licensed physician assistant, one osteopathic physician licensed pursuant to chapter 459, and one pharmacist licensed pursuant to chapter 465 who is not licensed pursuant to this chapter or chapter 459. The committee shall establish a formulary of medicinal drugs for which a fully certified physician assistant may prescribe. *The* ~~Such~~ formulary *may* ~~shall~~ not include controlled substances as defined in chapter 893, antineoplastics, antipsychotics, radiopharmaceuticals, general anesthetics or radiographic contrast materials, or any parenteral preparations except insulin and epinephrine.

2. Only the committee shall add to, delete from, or modify the formulary. Any person who requests an addition, deletion, or modification of a medicinal drug listed on such formulary *has* ~~shall have~~ the burden of proof to show cause why such addition, deletion, or modification should be made.

3. The *boards* ~~board~~ shall adopt the formulary required by this paragraph, and each addition, deletion, or modification to the formulary, by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall be effective 60 days *after* ~~from~~ the date it is filed with the Secretary of State. Upon adoption of the formulary, the *agency* ~~board~~ shall mail a copy of such formulary to each fully certified physician assistant and to each pharmacy licensed by the state. The *boards* ~~board~~ shall establish, by rule, a fee not to exceed $200 to fund the provisions of this paragraph and paragraph (e).

(5) PERFORMANCE BY TRAINEES.—Notwithstanding any other ~~provision of~~ law, a trainee may perform medical services when such services are rendered within the scope of an approved program.

(6) PROGRAM APPROVAL.—

(a) The *boards* ~~board~~ shall approve programs, *based on recommendations by the council,* for the education and training of physician assistants which meet standards established by ~~board~~ rule *of the boards.*

(b) The *boards* ~~board~~ shall adopt and publish standards to ensure that such programs operate in a manner *that* ~~which~~ does not endanger the health or welfare of the patients who receive services within the scope of the programs. The *boards* ~~board~~ shall review the quality of the curricula, faculties, and facilities of such programs and take whatever other action is necessary to determine that the purposes of this section are being met.

(c) Any community college with the approval of the State Board of Community Colleges may conduct a physician assistant program which shall apply for national accreditation through the American Medical Association's Committee on Allied Health, Education, and Accreditation, *or its successor organization,* and which may admit unlicensed physicians who are graduates of foreign medical schools listed with the World Health Organization. A community college shall charge students enrolled pursuant to this paragraph for the full cost of providing such instruction. The unlicensed physician must have been a resident of this state for a minimum of 12 months immediately prior to admission to the program. An evaluation of knowledge base by examination shall be required to grant advanced academic credit and to fulfill the necessary requirements to graduate. A minimum of one 16-week semester of supervised clinical and didactic education, which may be completed simultaneously, shall be required before graduation from the program. All other provisions of this section shall remain in effect.

(7) PHYSICIAN ASSISTANT CERTIFICATION.—

(a) Any person desiring to be certified as a physician assistant must apply to the *agency* ~~department~~. The *agency* ~~department~~ shall issue a certificate to any person *whom one of* ~~who~~ the *boards* ~~board~~ certifies has met the following requirements:

1. Is at least 18 years of age.

2. Has satisfactorily passed a proficiency examination by an acceptable score established by the National Commission on Certification of Physician Assistants.

3. Has completed the application form and remitted an application fee not to exceed $300 as set by the *boards* ~~board~~. An application for certification made by a physician assistant *must* ~~shall~~ include ~~all of the following~~:

a. A certificate of completion of a physician assistant training program specified in subsection (6).

b. A sworn statement of any prior felony convictions.

c. A sworn statement of any previous revocation or denial of licensure or certification in any state.

d. Two letters of recommendation.

(b)1. Notwithstanding ~~the provisions of~~ subparagraph (a)2. and subsubparagraph (a)3.a., the *agency* ~~department~~ shall examine each applicant *whom* ~~who~~ the *boards certify* ~~board certifies~~:

a. Has completed the application form and remitted a nonrefundable application fee not to exceed $500 and an examination fee not to exceed $300, plus the actual cost to the *agency* ~~department~~ for purchase of a proficiency examination from a national organization or, if unavailable, for development of a proficiency examination by the *agency* ~~department~~. The examination fee is refundable if the applicant is found to be ineligible to take the examination.

b. Is an unlicensed physician who graduated from a foreign medical school listed with the World Health Organization who has not previously taken and failed the examination of the National Commission on Certification of Physician Assistants and who has been certified by the Board *of Medicine* as having met the requirements for licensure as a medical doctor by examination as set forth in s. 458.311(1), (3), (4), and (5), with the exception that the applicant is not required to have completed an approved residency of at least 1 year and the applicant is not required to have passed the licensing examination specified under s. 458.311 or hold a valid, active certificate issued by the Educational Commission for Foreign Medical Graduates.

c. *Was eligible and made initial application* ~~Has applied~~ for certification as a physician assistant in this state between July 1, 1990, and June 30, 1991.

d. Was a resident of this state on July 1, 1990, or was licensed or certified in any state in the United States as a physician assistant on July 1, 1990

2. The Board *of Medicine* may grant temporary certification to an applicant who meets the requirements of subparagraph 1. Between meetings of the *council* ~~Physician Assistant Committee~~, the executive director of the board may grant temporary certification to practice based on the completion of all temporary certification requirements. All such administratively issued certifications shall be reviewed and acted on at the next regular meeting of the *council* ~~Physician Assistant Committee~~ and the Board *of Medicine*. The temporary certificate *expires* ~~shall expire~~ upon receipt and notice of scores to the certificateholder from the first available examination specified in subparagraph 1. following certification by the Board *of Medicine*. An applicant who fails the proficiency examination is no longer temporarily certified and is ineligible for any further temporary certification.

3. ~~The examination specified pursuant to subparagraph 1. shall be administered no sooner than 9 months after the effective date of this act.~~

The *agency* ~~department~~ may purchase from a national organization an examination approved by the board for use in this state. The examination shall have been previously validated and administered in its totality. The minimum passing score on the examination shall be established by the board, but the board *may* ~~shall~~ not require an examination passing score to be higher than the passing score for certification established by the National Commission on Certification of Physician Assistants for each particular examination, nor shall the method of scoring *the* ~~such~~ examinations differ from that of *the* ~~said~~ commission and defined in rules of the board. Applicants certified by the board for examination shall receive at least 6 months' notice of eligibility prior to the administration of the examination. Any applicant who fails the examination is not eligible for reexamination under this paragraph. Any applicant who passes the examination and meets the requirements of this section shall be certified as a physician assistant with all rights defined thereby.

(c) The certification must be renewed *biennially* ~~on a biennial basis~~. Each renewal *must* ~~shall~~ include:

1. A renewal fee not to exceed $500 as set by the *boards* ~~board~~.

2. A sworn statement of no felony conviction in the previous 2 years.

Any certificate *that* ~~which~~ is not renewed at the end of the biennium prescribed by the *agency* ~~department shall~~ automatically *reverts* ~~revert~~ to inactive status. Such certificate may be reactivated only if the certificateholder meets the other qualifications for the reactivation of an inactive certificate as prescribed in subsection (9). Sixty days prior to the end of the biennium and automatic reversion of a certificate to inactive status, the *agency* ~~department~~ shall mail a notice of renewal and possible reversion to the last known address of the certificateholder.

(d) Each certified physician assistant shall biennially complete 100 hours of continuing medical education or shall hold a current certificate issued by the National Commission on Certification of Physician Assistants.

(e) Upon employment as a physician assistant, a certified physician assistant must notify the *agency* ~~board~~ within 30 days after such employment or after any subsequent changes in the supervising physician ~~or alternate supervising physician~~. *The* ~~Such~~ notification *must* ~~shall~~ include the full name, Florida medical license number, specialty, and address of the supervising physician ~~or alternate supervising physician, as appropriate~~.

(f) Notwithstanding ~~the provisions of~~ subparagraph (a)2., the *boards* ~~board~~ may grant to a recent graduate of an approved program, as specified in subsection (6), temporary certification to expire upon receipt of scores of the proficiency examination administered by the National Commission on Certification of Physician Assistants. Between meetings of the *council* ~~Physician Assistant Committee~~, the *agency* ~~executive director of the board~~ may grant temporary certification to practice based on the completion of all temporary certification requirements. All such administratively issued certifications shall be reviewed and acted on at the next regular meeting of the *council* ~~Physician Assistant Committee~~ and *one of* the *boards* ~~board~~. The recent graduate may be certified prior to employment, but must comply with ~~the requirements of~~ paragraph (e). An applicant who has passed the proficiency examination may be granted permanent certification. An applicant failing the proficiency examination is no longer temporarily certified, but may reapply for a 1-year extension of temporary certification. *An applicant may not be granted more than two temporary certificates and may not be certified as a physician assistant until he passes the examination administered by the National Commission on Certification of Physician Assistants. As prescribed by board rule, the boards may require an applicant who does not pass the licensing examination after five or more attempts to complete additional remedial education or training. The boards shall prescribe the additional requirements in a manner that permits the applicant to complete the requirements and be reexamined within 2 years after the date the applicant petitions the boards to retake the examination a sixth or subsequent time.* ~~If an applicant fails the examination three times, he is no longer eligible for certification.~~

(g) *A* ~~The~~ board may *impose any of the penalties specified in ss. 455.227 and 458.331(2)* ~~deny, suspend, or place restrictions~~ upon ~~the permanent or temporary certification of~~ a physician assistant if he or the supervising physician has been found guilty of or is being investigated for any act *that* ~~which~~ constitutes a violation of this chapter *or chapter 455.*

(8) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the Agency for Health Care Administration.

(a) The council shall consist of five members appointed as follows:

1. The chairperson of the Board of Medicine shall appoint three members who are physicians and members of the Board of Medicine. One of the physicians must supervise a physician assistant in the physician's practice.

2. The chairperson of the Board of Osteopathic Medicine shall appoint one member who is a physician, supervises a physician assistant in the physician's practice, and is a member of the Board of Osteopathic Medicine.

3. The head of the agency or his designee shall appoint a fully certified physician assistant licensed under chapter 458 or chapter 459.

(b) Two of the members appointed to the council must be physicians who supervise physician assistants in their practice. Members shall be appointed to terms of 4 years, except that of the initial appointments, two members shall be appointed to terms of 2 years, two members shall be appointed to terms of 3 years, and one member shall be appointed to a term of 4 years, as established by rule of the boards. Council members may not serve more than two consecutive terms. The council shall annually elect a chairperson from among its members.

(c) The council shall:

1. Recommend to the agency the certification of physician assistants.

2. Develop all rules regulating the use of physician assistants by physicians under chapters 458 and 459 except for rules relating to the formulary developed under paragraph (4)(f). The council shall also develop rules to ensure that continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule developed by the council at the regularly scheduled meeting immediately following the submission of the proposed rule by the council. A proposed rule submitted by the council may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules submitted by the council must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules. If either board rejects the council's proposed rule, that board must specify its objection to the council with particularity and include any recommendations it may have for the modification of the proposed rule.

3. Make recommendations to the boards regarding all matters relating to physician assistants.

4. Address concerns and problems of practicing physician assistants in order to improve safety in the clinical practices of certified physician assistants.

~~(8) PHYSICIAN ASSISTANT COMMITTEE.—There is hereby created the Physician Assistant Committee which shall review and make recommendations to the board regarding all matters relating to physician assistants that come before the board and shall be directly responsible to the board. The committee shall be composed of three physician assistants, one supervising physician and one physician member of the board, all appointed by the chairman of the board. One physician assistant shall represent a physician assistant training program in this state. The two remaining physician assistants shall be appointed from recommendations of the Florida Academy of Physician Assistants who shall submit three candidates for each vacancy on the committee, one of whom shall be a non-academy member. All appointments shall be for 4-year terms, and no member shall serve more than two consecutive terms. To provide continuity on the committee, the terms of appointment of the physician assistant members shall be staggered. Initially, two of the physician assistant members shall be appointed for 2 years, and the third physician assistant member shall be appointed for a 4-year term. All subsequent appointments of physician assistant members shall be for 4-year terms. Reappointments shall be made by the board. The chairman of the committee shall be appointed by the chairman of the board or, at the chairman's discretion, be allowed to be elected by a majority vote of the committee members. The committee shall meet on a regular basis, and committee members shall receive reimbursement for time and travel expenditures.~~

(9) INACTIVE STATUS.—

(a) A certificate *that* ~~which~~ has become inactive may be reactivated pursuant to this section upon application to the *agency* ~~department~~. The *boards* ~~board~~ shall prescribe, by rule, continuing education requirements as a condition of reactivating a certificate. The continuing education requirements for reactivating a certificate *may* ~~shall~~ not be less than 50 continuing medical education hours for each year the certificate was inactive. The *boards* ~~board~~ shall, by rule, determine the length of time, not less than 4 years or more than 6 years, within which an inactive certificate may be reactivated. However, an inactive certificate *that* ~~which~~ is not reactivated within that time ~~shall~~ automatically *expires* ~~expire~~. Once a certificate expires, it becomes null and void without any further action by the *boards* ~~board~~ or *the agency* ~~department~~. One year prior to expiration of the certificate, the *agency* ~~department~~ shall give notice to the certificateholder.

(b) The *boards* ~~board~~ shall *adopt* ~~promulgate~~ rules relating to certificates *that* ~~which~~ have become inactive and for the reactivation of inactive certificates, including criteria an applicant must meet in order to activate an inactive certificate *that* ~~which~~ has not expired. The *boards* ~~board~~ shall prescribe, by rule, a fee not to exceed $500 for the reactivation of an inactive certificate.

(10) PENALTY.—Any person who has not been certified by the *boards* ~~board~~ and approved by the *agency* ~~department~~ and who holds himself out as a physician assistant or who uses any other term in indicating or implying that he is a physician assistant is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine not exceeding $5,000.

(11) DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATION.—The *boards* ~~board~~ may deny, suspend, or revoke a physician assistant certification if *a* ~~the~~ board determines that a physician assistant has violated ~~any provision of~~ this chapter.

(12) RULES.—The *boards* ~~board~~ shall adopt rules to implement this section, including rules detailing the contents of the application for certification and notification pursuant to subsection (7) and rules ~~necessary~~ to ensure both the continued competency of physician assistants and the proper utilization of them by physicians or group of physicians.

(13) EXISTING PROGRAMS.—This section *does* ~~shall~~ not ~~be construed to~~ eliminate or supersede existing laws relating to other paramedical professions or services and is supplemental to all such existing laws relating to the certification and practice of paramedical professions.

(14) LIABILITY.—Each supervising physician using a physician assistant is liable for any acts or omissions of the physician assistant acting under his supervision and control.

(15) LEGAL SERVICES.—The Department of Legal Affairs shall provide legal services to the council as authorized in s. 455 221(1).

(16) FEES.—The agency shall allocate the fees collected under this chapter to the appropriate board.

Section 2. Section 459.022, Florida Statutes, 1994 Supplement, is amended to read:

459.022 Physician assistants.—

(1) LEGISLATIVE INTENT.—

(a) The purpose of this section is to encourage the more effective utilization of the skills of osteopathic physicians by enabling them to delegate health care tasks to qualified assistants when such delegation is consistent with the health and welfare of patients.

(b) In order that maximum skills may be obtained within a minimum time period of education, the physician assistant shall be specialized to the extent that he can operate efficiently and effectively in the specialty areas in which he has been trained or is experienced.

(c) This section is established to encourage the utilization of physician assistants by osteopathic physicians and to allow for innovative development of programs for the education of physician assistants.

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

(a) "Agency" means the Agency for Health Care Administration.

~~(a) "Board" means the Board of Osteopathic Medicine.~~

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

(b)~~(c)~~ "Approved program" means a program for the education of physician assistants which has been formally approved by the *boards* ~~board~~.

(c) "Boards" means the Board of Medicine and the Board of Osteopathic Medicine.

(d) "Council" means the Council on Physician Assistants.

(e)~~(d)~~ "Trainee" means a person who is currently enrolled in an approved program.

(f)~~(e)~~ "Physician assistant" means a person who is a graduate of an approved program or its equivalent or meets standards approved by the *boards* ~~board~~ and is certified to perform medical services delegated by the supervising osteopathic physician.

(g)~~(f)~~ "Supervision" means responsible supervision and control. Except in cases of emergency, supervision *requires* ~~shall require~~ the easy availability or physical presence of the licensed osteopathic physician for consultation and direction of the actions of the physician assistant. For the purposes of this definition, the term "easy availability" *includes* ~~shall include~~ the ability to communicate by way of telecommunication by means and under circumstances approved by the *boards* ~~board~~ by rule. The *boards* ~~board~~ shall further establish rules as to what constitutes reasonable supervision of the physician assistant.

(h)~~(g)~~ "Proficiency examination" means an entry-level examination approved by the *boards* ~~board~~, including, but not limited to, those examinations administered by the National Commission on Certification of Physician Assistants.

(i) "Continuing medical education" means courses recognized and approved by the boards, the American Academy of Physician Assistants, the American Medical Association, the American Osteopathic Association, or the Accreditation Council on Continuing Medical Education.

(3) PERFORMANCE OF SUPERVISING OSTEOPATHIC PHYSICIAN.—Every osteopathic physician or group of osteopathic physicians who supervise certified physician assistants *must* ~~shall~~ be qualified in the medical areas in which the physician assistant is to perform and shall be individually or collectively responsible and liable for the performance and the acts and omissions of the physician assistant. *An* ~~No~~ osteopathic physician *may not supervise* ~~shall have under his supervision~~ more than *four* ~~two~~ currently certified physician assistants *at any one time.*

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(a) The *boards* ~~board~~ shall adopt, by rule, the general principles osteopathic supervising physicians shall use in developing the scope of practice of a physician assistant under both direct and indirect supervision. These principles shall recognize the diversity of both specialty and practice settings in which physician assistants are utilized.

(b) ~~Nothing in~~ This chapter *does not* ~~shall~~ prevent third-party payers from reimbursing employers of physician assistants for services rendered by certified physician assistants.

(c) Certified physician assistants may not be denied clinical hospital privileges, except for cause, so long as the supervising physician is a staff member in good standing.

(d) A supervisory osteopathic physician may delegate to a certified physician assistant, pursuant to a written protocol, the authority to act according to ~~the provisions of~~ s. 154.04(1)(d). Such delegated authority *is* ~~shall be~~ limited to the supervising osteopathic physician's practice in connection with a county public health unit as defined and established pursuant to chapter 154. *The boards shall adopt rules governing the supervision of physician assistants by osteopathic physicians in county public health units.*

(e) A supervisory osteopathic physician may delegate to a fully certified ~~osteopathic~~ physician assistant the authority to prescribe any medication used in the supervisory osteopathic physician's practice, if such medication is listed on the formulary created pursuant to s. 458.347. A fully certified ~~osteopathic~~ physician assistant may only prescribe such medication under the following circumstances:

1. *A* ~~An osteopathic~~ physician assistant must clearly identify to the patient that he is *a* ~~an osteopathic~~ physician assistant. Furthermore, the ~~osteopathic~~ physician assistant must inform the patient that the patient has the right to see the osteopathic physician prior to any prescription being prescribed by the ~~osteopathic~~ physician assistant.

2. The supervisory osteopathic physician must notify the *agency* ~~board~~ of *his* ~~such~~ intent to delegate, on *an agency-approved* ~~a board-approved~~ form, before delegating such authority and with each certification renewal application filed by the ~~osteopathic~~ physician assistant.

3. The ~~osteopathic~~ physician assistant must file with the *agency* ~~board~~, before commencing to prescribe, evidence that he has completed a continuing medical education course of at least 3 classroom hours in prescriptive practice, conducted by an accredited program approved by the *boards* ~~board~~, which course covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs *or evidence that he has received education comparable to the continuing education course as part of an accredited physician assistant training program.* Evidence of *having completed* ~~completion of~~ an additional 3-hour *continuing education* course, *or having received comparable education,* during the certificate period must be submitted by *a* ~~an osteopathic~~ physician assistant with each certification renewal application.

4. The ~~osteopathic~~ physician assistant must file with the ~~board~~, before commencing to prescribe, evidence that the ~~osteopathic~~ physician assistant has a minimum of 3 months of clinical experience in the specialty area of the supervising osteopathic physician.

5. The ~~osteopathic~~ physician assistant must file with the *agency* ~~board~~ evidence that he has completed a minimum of 10 continuing medical education hours in the specialty practice in which the ~~osteopathic~~ physician assistant has prescriptive privileges with each certification renewal application.

6. The *agency* ~~board~~ shall issue certification and a prescriber number to the ~~osteopathic~~ physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements.

7. The prescription must be written in a form *that* ~~which~~ complies with chapter 499 and must contain, in addition to the supervisory osteopathic physician's name, address, and telephone number, the ~~osteopathic~~ physician assistant's prescriber number. The prescription must be filled in a pharmacy permitted under chapter 465, and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number *creates* ~~shall create~~ a presumption that the ~~osteopathic~~ physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

8. The ~~osteopathic~~ physician assistant must note the prescription in the appropriate medical record, and the supervisory osteopathic physician must review and sign each notation. For dispensing purposes only, the failure of the supervisory osteopathic physician to comply with these requirements *does* ~~shall~~ not affect the validity of the prescription.

9. This paragraph does not prohibit a supervisory osteopathic physician *from* delegating to *a* ~~an osteopathic~~ physician assistant the authority to order medication for a hospitalized patient of the supervisory osteopathic physician.

The *boards* ~~board~~ shall adopt the formulary required by s. 458.347 by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall be effective 60 days *after* ~~from~~ the date it is filed with the Secretary of State. Upon adoption of the formulary required by s. 458.347, and upon each addition, deletion, or modification to the formulary by the committee, the *agency* ~~board~~ shall mail a copy of such formulary to each fully certified ~~osteopathic~~ physician assistant licensed pursuant to this chapter. The *boards* ~~board~~ shall establish, by rule, a fee not to exceed $200 to fund the provisions of this paragraph. ~~Nothing in~~ This paragraph *does not* ~~shall~~ apply to facilities licensed pursuant to chapter 395.

(5) PERFORMANCE BY TRAINEES.—Notwithstanding any other ~~provision of~~ law, a trainee may perform medical services when such services are rendered within the scope of an approved program.

(6) PROGRAM APPROVAL.—

(a) The *boards* ~~board~~ shall approve programs for the education and training of physician assistants which meet standards established by ~~board~~ rule *of the boards.*

(b) The *boards* ~~board~~ shall adopt and publish standards to ensure that such programs operate in a manner *that* ~~which~~ does not endanger the health and welfare of the patients who receive services within the scope of the program. The *council* ~~board~~ shall review the quality of the curricula, faculties, and facilities of such programs and take whatever other action is necessary to determine that the purposes of this section are being met.

(7) PHYSICIAN ASSISTANT CERTIFICATION.—

(a) Any person desiring to be certified in this state as a physician assistant shall apply to the *agency* ~~department~~. The *agency* ~~department~~ shall issue a certificate to any person *whom one of* ~~who~~ the *boards* ~~board~~ certifies has met the following requirements:

1. Is at least 18 years of age.

2. Has satisfactorily passed a proficiency examination by an acceptable score established by the National Commission on Certification of Physician Assistants.

3. Has completed the application form and remitted an application fee not to exceed $250 as set by the *boards* ~~board~~. An application for certification made by a physician assistant *must* ~~shall~~ include ~~all of the following~~:

a. A certificate of completion of an approved physician assistant training program.

b. A sworn statement of any prior felony convictions.

c. A sworn statement of any previous revocation or denial of licensure or certification in any state.

d. Two letters of recommendation.

(b) The certification must be renewed *biennially* ~~on a biennial basis~~. Each renewal *must* ~~shall~~ include:

1. A renewal fee not to exceed $250 as set by the *boards* ~~board~~.

2. A sworn statement of no felony convictions in the previous 2 years.

(c) Each certified physician assistant shall ~~be required to~~ biennially complete 100 hours of continuing medical education or shall hold a current certificate issued by the National Commission on Certification of Physician Assistants.

(d) Upon employment as a physician assistant, any certified physician assistant must notify the *agency* ~~board~~ in writing within 30 days after such employment or after any subsequent changes in the supervising osteopathic physician ~~or alternate supervising osteopathic physician~~. *The* ~~Such~~ notification *must* ~~shall~~ include the full name, Florida medical license number, specialty, and address of the supervising osteopathic physician ~~or alternate supervising osteopathic physician, as appropriate~~.

(e) The board may *impose any of the penalties specified in ss. 455.227 and 459.015(2)* ~~deny, suspend, or place restrictions~~ upon ~~the permanent or temporary certification of~~ a physician assistant if the physician assistant or the supervising osteopathic physician *is* ~~has been~~ found guilty or is being investigated for any act *that constitutes* ~~which could constitute~~ a violation of this chapter.

(f) Notwithstanding ~~the provisions of~~ subparagraph (a)2., the *boards* ~~board~~ may grant temporary certification to a recent graduate of an approved program to expire upon receipt of scores of the proficiency examination administered by the National Commission on Certification of Physician Assistants. Between meetings of the *council* ~~board~~, the *agency* ~~Physician Assistant Committee~~ may grant temporary certification to practice to physician assistant applicants based on the completion of all temporary certification requirements. All such issued certifications shall be reviewed and acted on at the next regular meeting of the *council and one of the boards* ~~board~~. The recent graduate may be certified prior to employment but must comply with ~~the provisions of~~ paragraph (d). An applicant who has passed the proficiency examination may be granted permanent certification. An applicant failing the proficiency examination is no longer temporarily certified but may reapply for a 1-year extension of temporary certification. *An applicant may not be granted more than two temporary certificates and may not be certified as a physician assistant until he passes the examination administered by the National Commission on Certification of Physician Assistants. As prescribed by board rule, the boards may require an applicant who does not pass the*

licensing examination after five or more attempts to complete additional remedial education or training. The boards shall prescribe the additional requirements in a manner that permits the applicant to complete the requirements and be reexamined within 2 years after the date the applicant petitions the boards to retake the examination a sixth or subsequent time. ~~If an applicant fails the examination three times, he is no longer eligible for certification.~~

(8) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the Agency for Health Care Administration.

(2) The council shall consist of five members appointed as follows:

1. The chairperson of the Board of Medicine shall appoint three members who are physicians and members of the Board of Medicine. One of the physicians must supervise a physician assistant in the physician's practice.

2. The chairperson of the Board of Osteopathic Medicine shall appoint one member who is a physician, supervises a physician assistant in the physician's practice, and is a member of the Board of Osteopathic Medicine.

3. The head of the agency or his designee shall appoint a fully certified physician assistant licensed under chapter 458 or chapter 459.

(b) Two of the members appointed to the council must be physicians who supervise physician assistants in their practice. Members shall be appointed to terms of 4 years, except that of the initial appointments, two members shall be appointed to terms of 2 years, two members shall be appointed to terms of 3 years, and one member shall be appointed to a term of 4 years, as established by rule of the boards. Council members may not serve more than two consecutive terms. The council shall annually elect a chairperson from among its members.

(c) The council shall:

1. Recommend to the agency the certification of physician assistants.

2. Develop rules regulating the use of physician assistants by physicians under chapters 458 and 459, except for rules relating to the formulary developed under s. 458.347(4)(f). The council shall also develop rules to ensure the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule developed by the council at the regularly scheduled meeting immediately following the submission of the proposed rule by the council. A proposed rule submitted by the council may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules submitted by the council must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules. If either board rejects the council's proposed rule, that board must specify its objection to the council with particularity and include any recommendations it may have for the modification of the proposed rule.

3. Make recommendations to the boards regarding all matters relating to physician assistants.

4. Address concerns and problems of practicing physician assistants in order to improve safety in the clinical practices of certified physician assistants.

~~(8) PHYSICIAN ASSISTANT COMMITTEE.—There is hereby created the Physician Assistant Committee which shall review and make recommendations to the board regarding all matters relating to physician assistants that come before the board. The committee shall be directly responsible to the board. The committee shall be composed of three physician assistants, one supervising osteopathic physician, and one physician member of the board, all appointed by the chairman of the board. One physician assistant shall represent the physician assistant training programs in this state. The two remaining physician assistants shall be filled by physician assistants who are currently certified by the board and shall be appointed from recommendations of the Florida Academy of Physician Assistants. All appointments shall be for 4 year terms, and no member may serve more than two consecutive terms. To provide administrative continuity on the committee, the terms of appointment of the physician assistant members shall be staggered. Initially, two of the physician assistant members shall be appointed for 2 years, and the third physician assistant member shall be appointed for a 4 year term. All subsequent appointments of the physician assistant members shall be for 4 year terms. Reappointments shall be made by the board. The chairman of the committee shall be appointed by the chairman of the board or, at the chairman's discretion, shall be allowed to be elected by a majority vote of the committee members. The committee shall meet on a regular basis, and committee members shall receive reimbursement for per diem and travel expenditures.~~

(9) PENALTY.—Any person who has not been certified by the *boards* ~~board~~ and approved by the *agency* ~~department~~ and who holds himself out as a physician assistant or who uses any other term in indicating or implying that he is a physician assistant commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine not exceeding $5,000.

(10) DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATION.—The *boards may* ~~board shall be empowered to~~ deny, suspend, or revoke a physician assistant certification if *a* ~~the~~ board determines *that* the physician assistant has violated ~~any of the provisions of~~ this chapter.

(11) RULES.—The *boards* ~~board~~ shall adopt rules necessary for the administration of the physician assistant process. Further, the *boards* ~~board~~ shall adopt rules detailing the contents of the application for certification and notification pursuant to subsection (7). The *boards* ~~board~~ shall adopt ~~such~~ rules ~~as are necessary~~ to ensure both the continued competency of physician assistants and the proper utilization of them by osteopathic physicians or groups of ~~osteopathic~~ physicians.

(12) EXISTING PROGRAMS.—~~Nothing in~~ This section *does not* ~~shall be construed to~~ eliminate or supersede existing laws relating to other paramedical professions or services. It is the intent of this section to supplement, and be in addition to, all such existing programs relating to the certification and practice of paramedical professions, as ~~may be~~ authorized by law.

(13) LIABILITY.—All osteopathic physicians or physician groups utilizing physician assistants *are* ~~shall be~~ liable for any acts or omissions of physician assistants acting under their supervision and control.

(14) LEGAL SERVICES.—The Department of Legal Affairs shall provide legal services to the council as authorized in s. 455.221(1).

(15) FEES.—The agency shall allocate the fees collected under this chapter to the appropriate board.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike all of lines 2 and 3 and insert: An act relating to the regulation of certain medical professions; amending ss. 458.347 and 459.022, F.S.; revising definitions; increasing the number of physician assistants a physician or osteopathic physician may supervise; providing for rules governing supervision of physician assistants by physicians in a county public health unit; revising circumstances under which a physician assistant may prescribe certain medications; revising provisions relating to temporary certification; providing penalties for certain violations by a physician assistant or supervising physician; deleting the Physician Assistant Committee; creating the Council on Physician Assistants; providing membership and duties; requiring the Department of Legal Affairs to provide legal services to the council; authorizing the Agency for Health Care Administration to allocate certain fees to the Board of Medicine or the Board of Osteopathic Medicine; conforming references to transfer of regulatory responsibilities to the agency; creating the "Florida Medical

On motion by Senator Forman, by two-thirds vote **CS for SB 1658** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34 Nays—1

Consideration of **SB 1348** was deferred.

SB 478—A bill to be entitled An act relating to the tourist development tax; amending s. 125.0104, F.S.; allowing any county that levies the tax to use the tax proceeds for specified purposes relating to certain zoological parks; providing an effective date.

—was read the second time by title.

Amendments were adopted to **SB 478** to conform the bill to **CS for HB 485**.

Pending further consideration of **SB 478** as amended, on motion by Senator Grant, by two-thirds vote **CS for HB 485** was withdrawn from the Committees on Community Affairs; and Ways and Means.

On motion by Senator Grant—

CS for HB 485—A bill to be entitled An act relating to the tourist development tax; amending s. 125.0104, F.S.; allowing any county that levies the tax to use tax proceeds to promote certain zoological parks; providing an effective date.

—a companion measure, was substituted for **SB 478** and read the second time by title. On motion by Senator Grant, by two-thirds vote **CS for HB 485** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31 Nays—5

Consideration of **SB 1754** was deferred.

SB 1776—A bill to be entitled An act relating to dentistry; amending s. 466.004, F.S.; revising provisions for the calling of meetings of the Council on Dental Hygiene and the Council on Dental Assisting; amending s. 466.007, F.S.; revising the educational requirements for certain applicants to take the examination to practice dental hygiene; reenacting s. 466.011, F.S., relating to licensure, to incorporate the amendment to s. 466.007, F.S., in a reference thereto; amending s. 466.0282, F.S.; revising provisions relating to practicing and advertising as a dental specialist; providing purpose and legislative findings and intent; providing an effective date.

—was read the second time by title.

One amendment was adopted to **SB 1776** to conform the bill to **CS for HB 2025**.

Pending further consideration of **SB 1776** as amended, on motion by Senator Brown-Waite, by two-thirds vote **CS for HB 2025** was withdrawn from the Committee on Health Care.

On motion by Senator Brown-Waite—

CS for HB 2025—A bill to be entitled An act relating to dentistry; amending s. 466.004, F.S., relating to the Board of Dentistry; revising provisions relating to meetings and duties of the Council on Dental Hygiene and the Council on Dental Assisting; amending s. 466.007, F.S., relating to examination of dental hygienists; revising qualifications to take the examination and providing an exemption therefrom for certain graduates of foreign dental colleges or schools; reducing the number of academic years of postsecondary education required; reenacting s. 466.011, F.S., relating to licensure, to incorporate the amendment to s. 466.007, F.S., in a reference thereto; creating s. 466.0075, F.S.; authorizing the Board of Dentistry to require any applicant for the examination to practice dentistry or dental hygiene to carry certain medical malpractice insurance; amending s. 466.023, F.S.; clarifying scope and area of practice of dental hygienists; amending s. 466.0282, F.S.; revising provisions relating to practicing and advertising as a dental specialist; providing purpose and legislative findings and intent; amending s. 466.032, F.S.; providing for biennial registration of dental laboratories; providing an effective date.

—a companion measure, was substituted for **SB 1776** and read the second time by title. On motion by Senator Brown-Waite, by two-thirds vote **CS for HB 2025** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

On motion by Senator Williams, by two-thirds vote **CS for HB 445** was withdrawn from the Committees on Community Affairs; and Governmental Reform and Oversight.

On motion by Senator Williams—

CS for HB 445—A bill to be entitled An act relating to the Florida Prompt Payment Act; amending s. 218.72, F.S.; defining the term "construction services"; amending s. 218.73, F.S., pertaining to the time at which payment is due from a local governmental entity; specifying an exemption; creating s. 218.735, F.S.; specifying the procedure for calculating the payment due date for the purchase of construction services by a local governmental entity; providing for the resolution of disputes; amending s. 218.74, F.S.; providing a cross reference for the due dates for payments for purchases of construction services; amending s. 218.78, F.S.; revising the requirement that local governmental entities report interest payments; specifying the threshold amount for such reports; providing legislative findings; providing an effective date.

—a companion measure, was substituted for **CS for SB 1308** and read the second time by title. On motion by Senator Williams, by two-thirds vote **CS for HB 445** was read the third time by title, passed by the required constitutional two-thirds vote of the membership and certified to the House. The vote on passage was:

Yeas—37 Nays—None

SB 1934—A bill to be entitled An act relating to education; reviving, readopting, and amending s. 230.2303, F.S., relating to establishing the Florida First Start Program; clarifying the role of the program in helping parents to achieve their goals for children's education and self-sufficiency; deleting the Florida First Start Program for Model Schools; reviving, readopting, and amending s. 230.2305, F.S., relating to the prekindergarten early intervention program; clarifying the requirement that a school district's plan for the prekindergarten early intervention program state how the program supports the district's effort to achieve the first state education goal; requiring health screening and referral; saving these programs from repeal; providing an effective date.

—was read the second time by title. On motion by Senator Sullivan, by two-thirds vote **SB 1934** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

SB 486—A bill to be entitled An act relating to insurance coverage; creating s. 627.4239, F.S.; requiring that insurers provide coverage in certain insurance policies for certain drugs prescribed for the treatment of cancer but not approved by the United States Food and Drug Administration; providing an effective date.

—was read the second time by title.

The Committee on Health Care recommended the following amendment which was moved by Senator Grant and adopted:

Amendment 1—On page 2, strike all of lines 3-18 and insert: indication in a standard reference compendium or recommended in the medical literature.

(b) Coverage for a drug required by this section also includes the medically necessary services associated with the administration of the drug.

(3) APPLICABILITY AND SCOPE.—This section may not be construed to:

(a) Alter any other law with regard to provisions limiting coverage for drugs that are not approved by the United States Food and Drug Administration.

(b) Require coverage for any drug if the United States Food and Drug Administration has determined that the use of the drug is contraindicated.

(c) Require coverage for a drug that is not otherwise approved for any indication by the United States Food and Drug Administration.

(d) Affect the determination as to whether particular levels, dosages, or usage of a medication associated with bone marrow transplant procedures are covered under an individual or group health insurance policy or health maintenance organization contract.

(e) Apply to specified disease or supplemental policies.

(4) Nothing in this section is intended, expressly or by implication, to create, impair, alter, limit, modify, enlarge, abrogate, prohibit, or withdraw any authority to provide reimbursement for drugs used in the treatment of any other disease or condition.

Senator Grant moved the following amendment which was adopted:

Amendment 2 (with Title Amendment)—On page 2, between lines 18 and 19, insert:

Section 2. Section 628.451, Florida Statutes, is amended to read:

628.451 Merger or share exchange of stock insurers *and other entities.*—

(1) *Notwithstanding general limitations on the ability of corporations to merge with other types of entities, a merger may be effected between or among* ~~A domestic stock insurer may merge with~~ one or more domestic or foreign stock insurers authorized to transact insurance in this state *and one or more other entities authorized to transact insurance and self-insurance in this state, including a self-insurance trust fund existing pursuant to s. 627.357, provided, in the case of a merger of a stock insurer with a self-insurance trust fund, that the stock insurer is the surviving entity after the merger*, by *compliance* ~~complying~~ with the applicable provisions of the statutes of this state governing the merger or share exchange of stock corporations formed for profit *and the applicable provisions of the statutes and regulations of this state governing the merger or share exchange of other entities, including self-insurance trust funds, formed pursuant to the laws of this state*, but subject to the special provisions of this section:

(a) A merger or share exchange may be initially proposed at any meeting of the board of directors of a domestic stock insurer by the affirmative vote of two-thirds of the total number of directors of the corporation, or at any meeting of the stockholders of the corporation by the affirmative vote of a majority of the total number of shares of stock outstanding and entitled to vote, provided the notice of such meeting sets forth such proposal.

(b) The plan of merger or share exchange, proposed as required by paragraph (a), shall be submitted to a duly called meeting of the stockholders of record of each domestic stock insurer and may become effective only if adopted at such meeting by the affirmative vote of 75 percent of the total number of shares of stock outstanding and entitled to vote. The notice of such meeting shall set forth in full the proposed plan of merger or share exchange.

(2) No such merger or share exchange shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the department and approved by it. The department shall give such approval *provided* ~~unless~~ it finds such plan or agreement:

(a) Is *in compliance with* ~~contrary to~~ law;

(b) Is *fair* ~~inequitable~~ to the stockholders of *or other holders of interests in* any insurer *or self-insurer* involved; *and* ~~or~~

(c) Would *not* substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this state or elsewhere.

(3) No director, officer, agent, or employee of any insurer party to such merger or share exchange shall receive any fee, commission, compensation, or other valuable consideration whatsoever for in any manner aiding, promoting, or assisting therein except as set forth in such plan or agreement.

(4) Any plan or proposal through which a stock insurer proposes to acquire a controlling stock interest in another stock insurer *or other insurance or self-insurance entity* through an exchange of stock of the first insurer, issued by the insurer for the purpose, for such controlling stock of *or other interests in* the second insurer *or self-insurer* is deemed to be a plan or proposal of merger of the second insurer *or self-insurer* into the first insurer for the purposes of this section and is subject to the applicable provisions hereof.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 7, after the semicolon (;) insert: amending s. 628.451, F.S.; providing procedures and standards for merger of entities authorized to transact insurance and self-insurance;

Senator Gutman moved the following amendment which was adopted:

Amendment 3 (with Title Amendment)—On page 2, between lines 18 and 19, insert:

Section 3. (1) A health insurance policy or group health insurance policy sold in this state must provide coverage for all medically appropriate and necessary equipment, supplies, and diabetes outpatient self-management training and educational services used to treat diabetes, if the patient's treating physician or a physician who specializes in the treatment of diabetes certifies that such services are necessary.

(2) Diabetes outpatient self-management training and educational services must be provided under the direct supervision of a certified diabetes educator or a board-certified endocrinologist. Nutrition counseling must be provided by a licensed dietitian.

(3) The Agency for Health Care Administration shall adopt rules establishing standards for diabetes outpatient self-management training and educational services that have been accepted by the American Diabetes Association.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 7, after the semicolon (;) insert: requiring health insurance and group health insurance policies to provide coverage for diabetes outpatient self-management training and educational services; providing for the adoption of rules;

On motion by Senator Grant, by two-thirds vote **SB 486** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Hargrett, by two-thirds vote **CS for HB 1627** was withdrawn from the Committees on Health and Rehabilitative Services; Education; and Ways and Means.

On motion by Senator Hargrett—

CS for HB 1627—A bill to be entitled An act relating to childhood pregnancy prevention; amending s. 411.202, F.S.; providing definitions; creating pt. IV of ch. 411, F.S.; creating the "Florida Education Now and Babies Later (ENABL) Act"; providing legislative intent; providing goals and essential elements; providing requirements for community-based local contractors; providing for matching funds; providing for exemption; providing for implementation of the program by the Department of Health and Rehabilitative Services; providing for initial contract awards; providing for a public relations campaign; providing for uniform training for contractors; providing for an evaluation; requiring biennial reports; amending s. 230.2303, F.S.; correcting a cross reference; providing an effective date.

—a companion measure, was substituted for **SB 2542** and read the second time by title. On motion by Senator Hargrett, by two-thirds vote **CS for HB 1627** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

On motion by Senator McKay, by two-thirds vote **HB 2731** was withdrawn from the Committee on Ways and Means.

On motion by Senator McKay—

HB 2731—A bill to be entitled An act relating to state revenue limitations; providing procedures and requirements to implement the limitation on state revenues imposed by s. 1(e), Art. VII of the State Constitution; providing definitions; providing for calculation of the maximum

amount of state revenue allowed; providing for adjustment of that amount; providing duties of the Comptroller, the Governor, the State Board of Administration, and state governmental entities; specifying actions to be taken when revenue collections exceed the limitation; providing an appropriation to the Budget Stabilization Fund if action is not taken; providing for refunds to taxpayers under certain conditions; providing an effective date.

—a companion measure, was substituted for **SB 456** and read the second time by title.

Senator McKay moved the following amendment which was adopted:

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

Section 1. Definitions.—For purposes of implementing s. 1(e), Art. VII and s. 21, Art. XII of the State Constitution:

(1) "State revenues" shall be determined as follows:

(a) Taxes, fees, licenses, and charges for services imposed by the Legislature on individuals, businesses, or agencies outside state government shall be considered state revenues. Taxes, fees, licenses, and charges for services imposed by state governmental entities pursuant to authority granted by the Legislature shall be considered state revenues. Refunds of taxes, fees, licenses, and charges for services shall be subtracted in the year paid. The following shall not be considered state revenues:

1. Fund balances carried forward from the prior fiscal year.

2. Receipts of the Florida Hurricane Catastrophe Trust Fund.

3. Revenue from taxes, licenses, fees, and charges for services imposed by local, regional, or school district governing bodies.

4. Revenue from taxes, licenses, fees, and charges for services required to be imposed by any amendment or revision to the State Constitution after July 1, 1994

5. Rents and royalties.

6. Contracts and grants from the Federal Government and other private and governmental entities to state governmental entities.

7. Revenues collected by university direct support organizations, auxiliary enterprises of state universities, and university faculty practice plans.

8. Reimbursements for expenditures and repayment of loans to state governmental entities.

9. Fines and other punitive assessments.

10. Revenues collected pursuant to state law by entities other than state governmental entities and retained by such entities; however, this does not include portions of a tax, fee, license, or charge for service retained by the collecting agent.

11. Revenues collected pursuant to state law by statutorily created nonprofit legal entities; such entities include insurance guaranty associations created pursuant to chapter 631 or chapter 440, Florida Statutes, the Florida Birth-Related Neurological Injury Compensation Plan, insurance risk apportionment plans created pursuant to chapter 627, Florida Statutes, the Florida Comprehensive Health Association, and other similarly created entities.

(b) Pursuant to s. 1(e), Art. VII and s. 21, Art. XII of the State Constitution, the following shall be subtracted from the amount calculated pursuant to paragraph (a):

1. Moneys required to be expended by documents authorizing the issuance of bonds by the state. However, this amount shall not include moneys required to be expended for any bond which is exclusively funded from revenue sources not considered state revenues under paragraph (a).

2. Moneys expended by the state to provide matching funds for the federal Medicaid program. However, such moneys do not include moneys expended from the Public Medical Assistance Trust Fund or moneys to provide matching funds for elective expansions to the federal Medicaid program made after July 1, 1994.

3. Proceeds from the state lottery returned as prizes.

(2) "State governmental entity" includes the judicial branch; the legislative branch; and state agencies as defined by s. 216.011, Florida Statutes.

(3) "Florida personal income" means the seasonally adjusted annual amount of Florida personal income, by quarter, as reported by the United States Department of Commerce.

(4) "Average annual rate of growth in Florida personal income over the most recent 20 quarters" means the sum of the most recent 20 quarters of Florida personal income for which data are available on February 1 prior to the start of the fiscal year to which the limitation applies, divided by the sum of the 20 quarters of Florida personal income beginning and ending 4 quarters earlier, less one. The average annual rate of growth in Florida personal income over the most recent 20 quarters shall be determined using information available on February 1 of each year and shall not be changed irrespective of subsequent revisions to the information made by the United States Department of Commerce.

Section 2. Maximum amount of state revenues allowed; adjustments.—

(1) The maximum amount of state revenues allowed for any fiscal year under s. 1(e), Art. VII of the State Constitution shall be limited to the maximum amount of state revenues allowed under s. 1(e), Art. VII of the State Constitution for the prior fiscal year plus an adjustment for growth. The adjustment for growth shall be calculated by multiplying the average annual rate of growth in Florida personal income over the most recent 20 quarters by the maximum amount of state revenues allowed under s. 1(e), Art. VII of the State Constitution for the prior fiscal year. For fiscal year 1995-1996, the maximum amount of state revenues allowed under s. 1(e), Art. VII of the State Constitution for the prior fiscal year shall equal the state revenues for the 1994-1995 fiscal year.

(2) The maximum amount of state revenues allowed under subsection (1) for any fiscal year may be adjusted as follows:

(a) The maximum amount of state revenues allowed for any fiscal year shall be increased if, by a two-thirds vote of the membership of each house, the Legislature votes to allow such an increase. The increase must be contained in a separate bill that contains no other subject and that sets forth the dollar amount by which the maximum amount of state revenues allowed will be increased. The vote may not be taken less than 72 hours after the third reading of the bill.

(b) In any fiscal year in which a transfer of responsibility for the funding of a governmental function from state government to another level of government occurs, there shall be a subtraction from the maximum amount of state revenues allowed for that fiscal year equal to the state revenues needed to perform that function for that fiscal year had it remained with state government, as estimated by the consensus estimating conference. In any fiscal year in which a transfer of responsibility for the funding of a governmental function to the state government from another level of government occurs, there shall be an addition to the maximum amount of state revenues allowed for that fiscal year equal to estimated state revenues necessary to perform the function for that fiscal year. In the event that such transfers are phased in over a period of time, the adjustments to the maximum amount of state revenues allowed may be similarly phased in until such time as the transfer is complete.

Section 3. Duties of the Comptroller.—

(1) On or before September 1, 1995, the Comptroller shall certify to the Governor and the presiding officers of the Legislature the amount of state revenues for fiscal year 1994-1995. This information shall be reported on a cash basis of accounting, including supplemental receipts, and shall be used as the measure of state revenues for 1994-1995 in the determination of the maximum amount of state revenues allowed for fiscal year 1995-1996.

(2) On or before September 1 of each year, beginning in 1996, the Comptroller shall certify to the Governor and the presiding officers of the Legislature the amount of state revenues for the fiscal year ending on the previous June 30. This information shall be reported on a cash basis of accounting, including supplemental receipts.

(3) On or before September 1, 1995, the Comptroller shall determine the maximum amount of state revenues allowed under s. 1(e), Art. VII of the State Constitution for the 1995-1996 fiscal year based on the determination made under subsection (1) and notify the Governor and the presiding officers of the Legislature of the amount so determined. Beginning

in 1996, the Comptroller shall determine by February 1 of each year the maximum amount of state revenues allowed under s. 1(e), Art. VII of the State Constitution and section 2 for the fiscal year beginning on the upcoming July 1. The Comptroller shall notify the Governor and the presiding officers of the Legislature of the amount so determined. This amount shall be adjusted accordingly if an adjustment to the maximum amount of state revenues allowed is made pursuant to section 2(2).

(4) The Comptroller shall, on or before September 1 of each year beginning in 1996, notify the Governor and the presiding officers of the Legislature of the extent, if any, to which state revenues for the fiscal year that ended on the previous June 30 exceeded the maximum amount of state revenues allowed under s. 1(e), Art. VII of the State Constitution as determined under subsection (3).

(5) If the Legislature does not bring the state into compliance with the revenue limitation pursuant to section 7 prior to the adjournment of the next regular session following notification by the Comptroller, there is hereby appropriated to the Budget Stabilization Fund from the General Revenue Fund an amount equivalent to the amount by which the Comptroller certifies the state revenues exceeded the revenue limitation. The Comptroller shall implement this appropriation not later than 30 days following the adjournment of that regular session of the Legislature. If the appropriation causes the Budget Stabilization Fund to exceed the maximum balance specified in s. 19(g), Art. III of the State Constitution, any excess shall be refunded to taxpayers as provided by general law.

Section 4. Duties of the Governor.—

(1) On or before August 15 of each year beginning in 1995, the Governor shall certify to the Comptroller and the presiding officers of the Legislature the amount of money expended by the state to provide matching funds for the federal Medicaid program during the fiscal year ending on the previous June 30, excluding moneys expended from the Public Medical Assistance Trust Fund or state moneys to provide matching funds for elective expansions to the federal Medicaid program made after July 1, 1994, or moneys from employers, employees, political subdivisions, or the state used to subsidize health insurance premiums approved as part of the federal Medicaid program pursuant to a section 1115 or similar Medicaid waiver from the federal government. This information shall be reported on a cash basis of accounting and shall not include funds certified forward pursuant to s. 216.301, Florida Statutes.

(2)(a) In calculating the information required in subsection (1), "moneys to provide matching funds for elective expansions to the federal Medicaid program made after July 1, 1994" means the amount of state matching funds spent during a fiscal year on any changes to the federal Medicaid program occurring after July 1, 1994. The federal Medicaid program shall be as defined in s. 409.901, Florida Statutes. Subject to the provisions of paragraph (b), changes include:

1. Expansions in categorical eligibility for Medicaid to persons not previously eligible for the Medicaid program.

2. Expansions in financial eligibility for Medicaid to persons not previously eligible for the Medicaid program.

3. Expansions of optional Medicaid services.

4. Additions of new health care provider types.

5. Subsidies, discounts, or any other use of state funds for the purchase of private or public insurance, including any portion of the price thereof.

(b) To the extent that changes are due to federal mandates, court orders, federally mandated price level changes, or federally mandated workload changes, as determined by the social services estimating conference pursuant to s. 216.136, Florida Statutes, they shall not be considered elective expansions.

(3) On or before August 15 of each year beginning in 1995, the Governor shall certify to the Comptroller and the presiding officers of the Legislature the amount of lottery receipts returned as prizes during the fiscal year ending the previous June 30. This information shall be reported on a cash basis of accounting.

Section 5. Duties of the State Board of Administration.—On or before August 15 of each year beginning in 1995, the State Board of Administration shall certify to the Comptroller, the Governor, and the presiding officers of the Legislature the amount of money required to be expended by documents authorizing the issuance of bonds by state governmental entities as specified in section 1 for the fiscal year ending the previous June 30.

Section 6. Duties of all state governmental entities.—

(1) Any state governmental entity that has authority to increase taxes, fees, licenses, or charges for services shall notify the Executive Office of the Governor and the chairpersons of the House and Senate Appropriations Committees not less than 90 days prior to any increase estimated to raise more than $1 million annually.

(2) Upon the request of the Comptroller, all state governmental entities must submit, by the date and in the form and format specified by the Comptroller, information necessary for the Comptroller to fulfill his duties pursuant to section 3. If any state governmental entity fails to comply with this subsection, the provisions of s. 216.102(3), Florida Statutes, shall apply.

Section 7. Required actions when revenues exceed the limitation.—Upon notification by the Comptroller that revenues for any fiscal year have exceeded the maximum amount of state revenues allowed under s. 1(e), Art. VII of the State Constitution, the Legislature, prior to the adjournment of the next regular session, shall take one of the following actions to bring the state into compliance with the State Constitution:

(1) Appropriate an amount of money equivalent to the amount by which the maximum amount of state revenues allowed has been exceeded for transfer to the Budget Stabilization Fund, and, if the appropriation causes the Budget Stabilization Fund to exceed the maximum balance specified in s. 19(g), Art. III of the State Constitution, refund any excess to taxpayers as provided by general law; or

(2) Increase the maximum amount of state revenues allowed as provided in section 2(2)(a).

Section 8. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to state revenue limitations; providing procedures and requirements to implement the limitation on state revenues imposed by s. 1(e), Art. VII of the State Constitution; providing definitions; providing for calculation of the maximum amount of state revenue allowed; providing for adjustment of that amount; providing duties of the Comptroller, the Governor, the State Board of Administration, and state governmental entities; specifying actions to be taken when revenue collections exceed the limitation; providing an appropriation to the Budget Stabilization Fund if action is not taken; providing for refunds to taxpayers under certain conditions; providing an effective date.

On motion by Senator McKay, by two-thirds vote **HB 2731** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

SB 1754—A bill to be entitled An act relating to dispensing controlled substances; amending s. 465.035, F.S.; allowing the dispensing of controlled substances based on electronic facsimiles of the original prescriptions; providing an effective date.

—was read the second time by title.

The Committee on Governmental Reform and Oversight recommended the following amendment which was moved by Senator Bankhead and adopted:

Amendment 1—On page 2, line 10, strike "*1036.11*" and insert: *1306.11*

Senator Bankhead moved the following amendment:

Amendment 2 (with Title Amendment)—On page 2, between lines 10 and 11, insert:

Section 2. Subsections (10) and (12) of section 465.003, Florida Statutes, 1994 Supplement, are amended to read:

465.003 Definitions.—As used in this chapter, the term:

(10)*(a)* "Pharmacy" includes a community pharmacy, an institutional pharmacy, a nuclear pharmacy, and a special pharmacy.

1.~~(a)~~ The term "community pharmacy" includes every location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis.

2.~~(b)~~ The term "institutional pharmacy" includes every location in a hospital, clinic, nursing home, dispensary, sanitarium, extended care facility, or other facility, hereinafter referred to as "health care institutions," where medicinal drugs are compounded, dispensed, stored, or sold.

3.~~(c)~~ The term "nuclear pharmacy" includes every location where radioactive drugs and chemicals within the classification of medicinal drugs are compounded, dispensed, stored, or sold. The term "nuclear pharmacy" does not include hospitals licensed under chapter 395 or the nuclear medicine facilities of such hospitals.

4.~~(d)~~ The term "special pharmacy" includes every location where medicinal drugs are compounded, dispensed, stored, or sold if such locations are not otherwise defined in this subsection.

(b) The pharmacy department of any permittee shall be considered closed whenever a Florida licensed pharmacist is not present and on duty. The term "not present and on duty" shall not be construed to prevent a pharmacist from exiting the prescription department for the purposes of consulting or responding to inquiries or providing assistance to patients or customers, attending to personal hygiene needs, or performing any other function for which the pharmacist is responsible, provided that such activities are conducted in a manner consistent with the pharmacist's responsibility to provide pharmacy services.

(12) "Practice of the profession of pharmacy" includes compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug and ~~consulting~~ concerning therapeutic values and interactions of patent or proprietary preparations, whether pursuant to prescriptions or in the absence and entirely independent of such prescriptions or orders, *and other related cognitive services.* The phrase also includes any other act, service, operation, or transaction incidental to, or forming a part of, any of the foregoing acts, requiring, involving, or employing the science or art of any branch of the pharmaceutical profession, study, or training, and shall expressly permit a pharmacist to transmit information from persons authorized to prescribe medicinal drugs to their patients.

Section 3. Section 465.0075, Florida Statutes, is created to read:

465.0075 Licensure of certain foreign-trained pharmacists.—Notwithstanding ss. 455.218 and 465.007(1)(b)2., a graduate of a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States, who has been a resident of this state for a continuous period of at least 1 year as of January 1, 1992, and has submitted proof to the department that he or she has practiced pharmacy in his or her country of origin for at least 1 year or has been employed as a pharmacy technician in a permitted pharmacy in this state, is eligible, upon the filing of the application and payment of the fees required by s. 465.007(1)(a), to take the licensure examination. This section expires July 1, 1996.

Section 4. Section 465.0105, Florida Statutes, is created to read:

465.0105 Pharmacy specialist certificate.—

(1) A pharmacy specialist certificate may be issued without examination to an individual who:

(a) Is the recipient of a degree from a school or college of pharmacy accredited by an accrediting agency recognized and approved by the United States Department of Education.

(b) Holds a valid, current license to practice pharmacy in another state.

(c) Meets the requirements of s. 465.007(1)(a) and (b) and the requirements of ss. 465.008 and 465.009, if applicable.

(2) The certificate shall authorize the holder to practice only in conjunction with a school or college of pharmacy and its affiliated clinics or teaching hospitals which are registered with the board as sites at which holders of pharmacy specialist certificates will be practicing. Such certificate shall automatically expire when the holder's relationship with the school or college is terminated.

(3)(a) A pharmacy specialist certificate is renewable every 2 years by a holder who applies to the board on a form prescribed by the board.

(b) The recipient of a renewal certificate may engage in the practice of pharmacy to the extent that such practice is a necessary part of the certificateholder's duties in connection with that faculty position in that school or college and its affiliated clinics and teaching hospitals which are registered with the board as sites at which holders of pharmacy specialist certificates will be practicing.

Section 5. Section 465.0125, Florida Statutes, is amended to read:

465.0125 Consultant pharmacist license; application, renewal, fees*; responsibilities; rules.*—

(1) The department shall issue or renew a consultant pharmacist license upon receipt of an initial or renewal application which conforms to the requirements for consultant pharmacist initial licensure or renewal as promulgated by the board by rule and a fee set by the board not to exceed $250. The consultant pharmacist shall be responsible for maintaining all drug records required by law and for establishing drug handling procedures for the safe handling and storage of drugs. The consultant pharmacist may also be responsible for ordering and evaluating any laboratory or clinical testing when, in the judgment of the consultant pharmacist, such activity is necessary for the proper performance of the consultant pharmacist's responsibilities. Such laboratory or clinical testing may be ordered only with regard to patients residing in a nursing home facility, and then only when authorized by the medical director of the nursing home facility. The consultant pharmacist must have completed such additional training and demonstrate such additional qualifications in the practice of institutional pharmacy as shall be required by the board ~~of Pharmacy~~ in addition to licensure as a registered pharmacist. ~~The board shall promulgate rules necessary to implement and administer this section.~~

(2) Notwithstanding the provisions of subsection (1), a consultant pharmacist or a Doctor of Pharmacy licensed in this state may also be responsible for ordering and evaluating any laboratory or clinical testing for persons under the care of a licensed home health agency when, in the judgment of the consultant pharmacist or Doctor of Pharmacy, such activity is necessary for the proper performance of his or her responsibilities and only when authorized by the person's physician. In order for the consultant pharmacist or Doctor of Pharmacy to qualify and accept this authority, he or she must receive 3 hours of continuing education relating to laboratory and clinical testing as established by the board.

(3) The board shall promulgate rules necessary to implement and administer this section.

Section 6. Section 465.014, Florida Statutes, is amended to read:

465.014 Pharmacy technician.—No person other than a licensed pharmacist or pharmacy intern may engage in the practice of the profession of pharmacy, except that a licensed pharmacist may delegate to nonlicensed pharmacy technicians those duties, tasks, and functions which do not fall within the purview of s. 465.003(12). All such delegated acts shall be performed under the direct supervision of a licensed pharmacist who shall be responsible for all such acts performed by persons under his supervision. *A pharmacy technician, under the direct supervision of a pharmacist, may initiate or receive communications with a practitioner, on behalf of the patient, regarding refill authorization requests and related information.* No licensed pharmacist shall supervise more than one pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The board shall establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one but not more than *three* ~~two~~ pharmacy technicians.

Section 7. Subsection (1) of section 465.0156, Florida Statutes, is amended to read:

465.0156 Registration of nonresident pharmacies.—

(1) Any pharmacy which is located outside this state and which ships, mails, or delivers, in any manner, a dispensed medicinal drug into this state shall be considered a nonresident pharmacy, shall be registered with the board, *shall* provide pharmacy services at a high level of protection and competence, and *shall* disclose to the board the following specific information:

(a) That it maintains at all times a valid, unexpired license, permit, or registration to operate the pharmacy in compliance with the laws of the state in which the dispensing facility is located and from which the medicinal drugs shall be dispensed;

(b) The location, names, and titles of all principal corporate officers and *the pharmacist who serves as the prescription department manager for* ~~all pharmacists who are~~ dispensing medicinal drugs to residents of this state. This disclosure shall be made on *a biennial* ~~an annual~~ basis *with renewal of registration* and within *10* ~~30~~ days after any change of ~~office~~ location, corporate officer, or pharmacist *serving as the prescription department manager for dispensing medicinal drugs to residents of this state*;

(c) That it complies with all lawful directions and requests for information from the regulatory or licensing agency of all states in which it is licensed as well as with all requests for information made by the board pursuant to this section. It shall respond directly to all communications from the board concerning emergency circumstances arising from errors in the dispensing of medicinal drugs to the residents of this state;

(d) That it maintains its records of medicinal drugs dispensed to patients in this state so that the records are readily retrievable from the other business records of the pharmacy and from the records of other medicinal drugs dispensed; and

(e) That during its regular hours of operation but not less than 6 days per week, for a minimum of 40 hours per week, a toll-free telephone service shall be provided to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number must be disclosed on the label affixed to each container of dispensed medicinal drugs.

Section 8. Paragraph (o) of subsection (1) and paragraphs (c) and (e) of subsection (2) of section 465.016, Florida Statutes, are amended to read:

465.016 Disciplinary actions.—

(1) The following acts shall be grounds for disciplinary action set forth in this section:

(o) Failing to report to the *department* ~~Division of Medical Quality Assurance~~ any *licensee* ~~physician licensed~~ under chapter 458 or ~~osteopathic physician licensed under~~ chapter 459 who the pharmacist knows has violated the grounds for disciplinary action set out in the law under which that *person* ~~physician or osteopathic physician~~ is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the pharmacist also provides services.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(c) Imposition of an administrative fine not to exceed *$5,000* ~~$1,000~~ for each count or separate offense.

(e) Placement of the pharmacist on probation for a period of time and subject to such conditions as the board may specify, including, *but not limited to,* requiring the pharmacist to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another pharmacist.

Section 9. Section 465.0196, Florida Statutes, is amended to read:

465.0196 Special pharmacy permits.—Any person desiring a permit to operate a pharmacy which does not fall within the definitions set forth in s. 465.003(10)(a)*1.*, *2.*~~(b)~~, and *3.*~~(c)~~ shall apply to the department for a special pharmacy permit. If the board certifies that the application complies with the applicable laws and rules of the board governing the practice of the profession of pharmacy, the department shall issue the permit. No permit shall be issued unless a licensed pharmacist is designated to undertake the professional supervision of the compounding and dispensing of all drugs dispensed by the pharmacy. The licensed pharmacist shall be responsible for maintaining all drug records and for providing for the security of the area in the facility in which the compounding, storing, and dispensing of medicinal drugs occurs. The permittee shall notify the department within 10 days of any change of the licensed pharmacist responsible for such duties.

Section 10. Subsection (1) of section 465.186, Florida Statutes, is amended to read:

465.186 Pharmacist's order for medicinal drugs; dispensing procedure; development of formulary.—

(1) There is hereby created a committee composed of two members of the Board of Medicine licensed under chapter 458 chosen by said board, one member of the Board of Osteopathic Medicine licensed under chapter 459 chosen by said board, three members of the Board of Pharmacy licensed under this chapter and chosen by said board, and one ~~additional~~ person with a background in health care or pharmacology, *one consumer, and one member of the faculty of an accredited College of Pharmacy located in this state* chosen by the committee. The committee shall establish a formulary of medicinal drug products and dispensing procedures which shall be used by a pharmacist when ordering and dispensing such drug products to the public. Dispensing procedures may include matters related to reception of patient, description of his condition, patient interview, patient physician referral, product selection, and dispensing and use limitations. In developing the formulary of medicinal drug products, the committee may include products falling within the following categories:

(a) Any medicinal drug of single or multiple active ingredients in any strengths when such active ingredients have been approved individually or in combination for over-the-counter sale by the U.S. Food and Drug Administration.

(b) Any medicinal drug recommended by the U.S. Food and Drug Administration Advisory Panel for transfer to over-the-counter status pending approval by the U.S. Food and Drug Administration.

(c) Any medicinal drug containing any antihistamine or decongestant as a single active ingredient or in combination.

(d) Any medicinal drug containing fluoride in any strength.

(e) Any medicinal drug containing lindane in any strength.

(f) Any over-the-counter proprietary drug under federal law that has been approved for reimbursement by the Florida Medicaid Program.

(g) Any other drug product deemed appropriate by the committee.

Except as provided in paragraph (f) ~~However~~, any drug which is sold as an over-the-counter proprietary drug under federal law shall not be included in the formulary or otherwise affected by this section.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 6, after the semicolon (;) insert: amending s. 465.003, F.S.; revising the definitions of "pharmacy" and "practice of the profession of pharmacy"; creating s. 465.0075, F.S.; providing for licensure of certain foreign-trained pharmacists; providing for future repeal of the section; creating s. 465.0105, F.S.; providing for a pharmacy specialist certificate; amending s. 465.0125, F.S.; providing responsibilities of consultant pharmacists and Doctors of Pharmacy; providing for rules; amending s. 465.014, F.S.; revising tasks and duties delegated to a pharmacy technician; increasing the number of pharmacy technicians who may be supervised by a licensed pharmacist; amending s. 465.0156, F.S.; revising information required for registration of nonresident pharmacies; amending s. 465.016, F.S.; revising disciplinary actions; increasing the administrative fine; providing penalties; amending s. 465.0196, F.S., relating to special pharmacy permits; correcting a cross reference; amending s. 465.186, F.S.; increasing the membership of the committee responsible for establishing the formulary of medicinal drug products and dispensing procedures; authorizing the formulary to include over-the-counter proprietary drugs under federal law that have been approved for reimbursement by the Florida Medicaid Program and any other drug product deemed appropriate by the committee;

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

Amendment 2A—On page 9, strike all of lines 26-28 and insert: person with a background in health care or pharmacology chosen by the

Amendment 2 as amended was adopted.

Senator Forman moved the following amendment which was adopted:

Amendment 3 (with Title Amendment)—On page 2, between lines 10 and 11, insert:

Section 2. Section 465.036, Florida Statutes, is created to read:

465.036 Compounding by a pharmacist.—A pharmacist may compound medicinal drugs as defined in s. 465.003 subject to following conditions:

(1) The compounding of drugs and devices is performed pursuant to the prescription of a practitioner authorized by law to prescribe medicinal drugs, or

(2) The compounding is performed in anticipation of the receipt of prescriptions based on routine regularly observed prescribing patterns, or

(3) The compounding of drugs and devices is performed for the purpose of sale or transfer to practitioners authorized by law to prescribe medicinal drugs for administration to their patients so long as such activity does not involve more than 5 percent of the total annual dollar value of all medicinal drugs sold by the compounding pharmacy in the year during which such sale or transfer occurs.

(4) Compounding shall include only products which are not commercially available unless the compounding of commercially available products is authorized by the prescribing practitioner and the patient is notified of such compounding.

(5) The reconstitution of commercially available products pursuant to the manufacturers' guidelines is permissible without notice to the practitioner or the patient.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 6, after the semicolon (;) insert: creating s. 465.036, F.S.; dealing with compounding by a pharmacist;

On motion by Senator Bankhead, by two-thirds vote **SB 1754** 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—1

Consideration of **CS for SB 254** was deferred.

On motion by Senator Kurth, by two-thirds vote **CS for HB 2023** was withdrawn from the Committees on Criminal Justice; Health and Rehabilitative Services; and Ways and Means.

On motion by Senator Kurth—

CS for HB 2023—A bill to be entitled An act relating to juvenile sexual offenders; amending s. 39.01, F.S.; defining "juvenile sexual offender" and "juvenile sexual abuse"; amending s. 39.044, F.S.; providing procedures when a juvenile sexual offender is placed in detention; requiring detention staff to notify law enforcement and school personnel of a juvenile sexual offender's release or transfer; amending s. 39.052, F.S.; allowing the court to place a sexual offender in community-based treatment at an adjudicatory hearing; providing procedures for a multidisciplinary assessment, including assessment by certified psychologist, therapist, or psychiatrist; providing for reports; providing court authority to review or revoke treatment; amending s. 39.054, F.S.; authorizing the court, subject to specific appropriation, to commit a juvenile sexual offender to the Department of Juvenile Justice for placement in specified programs; amending s. 39.067, F.S.; requiring outpatient sexual offender counseling, subject to specific appropriation, as a component of aftercare services for a juvenile sexual offender furloughed from a commitment program; creating s. 39.0571, F.S.; creating juvenile sexual offender commitment programs; requiring the Department of Juvenile Justice to establish procedures and protocols with certain agencies; providing contracting authority; requiring quality assurance and certain outcome evaluation efforts; providing rulemaking authority; amending s. 415.50165, F.S.; defining "alleged juvenile sexual offender," "juvenile sexual abuse," and "victim"; creating s. 415.50171, F.S.; requiring a family services response system approach to reports of child-on-child sexual abuse by the Department of Health and Rehabilitative Services; providing procedures; requiring certain services to be provided to the victim of juvenile sexual abuse, the alleged juvenile sexual offender, and their caregivers; requiring classification of reports by the department; providing rulemaking authority; amending s. 415.504, F.S.; requiring mandatory reporting and acceptance of juvenile sexual abuse reports by the Department of Health and Rehabilitative Services; providing procedures; requiring the Department of Juvenile Justice, the Juvenile Justice Standards and Training Commission, the Department of Health and Rehabilitative Services, and the Department of Business and Professional Regulation, in a collaborative effort, to study the requirements, licenses, certification, and training of persons providing mental health treatment to juvenile sexual offenders; requiring a report to the Governor and the Legislature; providing an effective date.

—a companion measure, was substituted for **CS for SB 2158** and read the second time by title.

Senator Kurth moved the following amendments which were adopted:

Amendment 1—On page 13, strike line 9 and insert:

(1) *Subject to specific appropriation, upon receiving a report alleging juvenile sexual*

Amendment 2—On page 19, lines 6 and 7, strike "Department of Business and Professional Regulation" and insert: Agency for Health Care Administration

Amendment 3—On page 20, lines 3 and 4, strike "Department of Business and Professional Regulation" and insert: Agency for Health Care Administration

On motion by Senator Kurth, by two-thirds vote **CS for HB 2023** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

RECONSIDERATION

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

CS for HB 855—A bill to be entitled An act relating to the Environmental Regulation Commission; amending s. 20.255, F.S.; clarifying membership requirements of commissioners; amending s. 403.804, F.S.; authorizing the commission to exercise specified standard-setting authority of the Department of Environmental Protection; prohibiting the commission from establishing department policies, priorities, plans, or directives; amending s. 403.805, F.S.; granting the Secretary of the Department of Environmental Protection rulemaking authority; requiring the secretary to submit proposed rules to the commission for certain action; providing an effective date.

—passed as amended this day.

On motion by Senator Burt, by two-thirds vote the Senate reconsidered the vote by which **CS for HB 855** was read the third time.

On motion by Senator Burt, the Senate reconsidered the vote by which **Amendment 1** was adopted. **Amendment 1** was withdrawn.

Senator Harden moved the following amendment which was adopted:

Amendment 3 (with Title Amendment)—On page 3, between lines 25 and 26, insert:

Section 4. *Risk-Based Priority Council.*—

(1) There is created the Risk-Based Priority Council to recommend guidelines to the Governor, the Legislature, and agencies for conducting risk analyses.

(2) The council must consist of eight members who shall represent the disciplines of toxicology, statistics, the fate and transport of air pollutants, epidemiology, the fate and transport of water pollutants, risk assessment, and human health and economics. Each council member must have a postgraduate degree in at least one of the disciplines specified in this subsection and at least 6 years of experience in the discipline represented by the member on the council. Preference shall be

given in choosing council members to individuals with knowledge or experience in risk assessment procedures, if available. Additional employment experience may be substituted for a postgraduate degree in order for a person to qualify for membership on the council. No more than three members of the council may be employees of the state or any political subdivision of the state, or members of the faculty of a state university.

(a) The Governor shall appoint four members to the council, one of whom must be an expert in statistics, one of whom must be an expert in risk assessment, one member who shall be an expert in economics, and one of whom must be an expert in human health and be a medical doctor who has at least 6 years of experience in public health.

(b) The President of the Senate shall appoint two members of the council, one of whom must be an expert in the fate and transport of air pollutants and one of whom must be an expert in epidemiology.

(c) The Speaker of the House of Representatives shall appoint two members to the council, one of whom must be an expert in toxicology and one of whom must be an expert in the fate and transport of water pollutants.

(3) The members of the council shall be appointed within 45 days after the effective date of this act. The members of the council shall select a chairman and vice chairman to serve 1-year terms. A vacancy on the council shall be filled in the same manner as the initial appointment.

(4) The council members shall serve without compensation, but are entitled to reimbursement for travel and per diem expenses incurred while engaged in the business of the council as provided by section 112.061, Florida Statutes.

(5)(a) By October 1, 1996, the council shall submit a report to the Governor, the Legislature, and the agencies recommending guidelines for agencies to use in conducting risk analyses. The report must include the most cost-effective, least burdensome, simple, and easy-to-understand risk-analysis guidelines which provide for consideration of exposure pathways, criteria for use of default assumptions, evaluation of dose-response relationships, consideration of the mode of action in both studied subjects and potentially exposed persons, selection of appropriate extrapolation models, use of no-effect thresholds, and identification of limitations and uncertainties at each step of the analysis. In preparing the report, the council shall, as necessary, consult with scientific, technical, and legal experts. The council shall provide a draft report for public comment in a timely manner before finalization.

(b) The council shall, at a minimum, consider the following issues in preparing its report:

1. The scope, level of detail, and sophistication of analyses required to produce scientifically defensible risk analyses in support of regulatory decision-making.

2. Costs associated with obtaining data and conducting risk analyses, including costs resulting from delays or inaction in implementing public health regulations.

3. A method for obtaining data that will serve as the basis for a risk analysis, including a process for soliciting data and criteria for evaluating the quality and appropriateness of such data.

4. A description of assumptions, including limitations, defaults, range and variability of estimates, and models that shall be used at each level of specificity and analysis, and processes for modifying or replacing those assumptions with actual data.

5. Ways in which the results of a risk analysis can be conveyed in simple, easy-to-understand terms.

6. Opportunities for public and independent peer review of risk analyses procedures.

7. The relationship between state and federal regulatory agencies, including information about federal requirements or preemption in application of risk analyses by such agencies.

8. The impact of risk analyses on communities of color and low-income communities, including consideration of any recommendations of the Environmental Equity and Justice Commission.

9. The relative risk ranking done as part of the Florida Comparison on Environmental Risks Project.

10. Ways to minimize risk analyses, such as eliminating requirements for risk analyses where a public health rule which has undergone risk assessment analysis is incorporated by reference into another rule.

11. Recommendations as to the type, nature, and scope of agency rules which, based upon the applicability of scientifically based risk principles, should be subject to risk impact statements as required by s. 120.54(18).

(6) The council shall meet as often as required to prepare the report required by subsection (5). The meetings shall be determined by the council but shall be located in different areas of the state to allow for public participation from all parts of the state.

(7) The agencies shall cooperate to the fullest extent in assisting the council in performing its duties under this section. Such cooperation shall include, but is not limited to, providing information and data related to an agency's preparation of any risk analysis.

(8) For administrative purposes, the council is assigned to the Joint Legislative Management Committee, which shall provide staff and assistance to the council.

(9) The council shall cease to exist after the completion of its report to the Legislature and Governor.

Section 5. Subsection (18) is added to section 120.54, Florida Statutes, to read:

120.54 Rulemaking; adoption procedures.—

(18) Effective October 1, 1995, the Department of Environmental Protection shall prepare a risk impact statement for any rule that is proposed for approval by the Environmental Regulation Commission and that establishes or changes standards or criteria based on impacts to or effects upon human health. Effective October 1, 1996, the Department of Agriculture and Consumer Services shall prepare a risk impact statement for any rule that is proposed for adoption that establishes standards or criteria based on impacts to or effects upon human health.

(a) This subsection does not apply to rules adopted pursuant to federally delegated or mandated programs where such rules are identical or substantially identical to the federal regulations or laws being adopted or implemented by the Department of Environmental Protection or Department of Agriculture and Consumer Services, as applicable. However, the Department of Environmental Protection and the Department of Agriculture and Consumer Services shall identify any risk analysis information available to them from the federal government that has formed the basis of such rule.

(b) This subsection does not apply to emergency rules adopted pursuant to this chapter.

(c) The Department of Environmental Protection and the Department of Agriculture and Consumer Services shall prepare and publish notice of the availability of a clear and concise risk impact statement for all applicable rules. The risk impact statement must explain the risk to the public health addressed by the rule and shall identify and summarize the source of the scientific information used in evaluating that risk.

(d) Nothing in this section shall be construed to create a new cause of action or basis for challenging a rule nor diminish any existing cause of action or basis for challenging a rule.

Section 3. *In order to initiate and develop interim guidance for conducting the risk-impact statement process, the Department of Environmental Protection shall, in Fiscal Year 1995-1996, initiate at least one model risk-impact statement project for an applicable rule. The department shall contract with the state university system for assistance in the technical aspects of preparing the impact statement. The sum of $50,000 is hereby appropriated to the Department of Environmental Protection from the Solid Waste Management Trust Fund for these purposes.*

Section 6. Sections 4 and 5 of this act shall stand repealed on October 1, 1998, and shall be reviewed by the Legislature prior to that date.

And the title is amended as follows:

In title, on page 1, line 17, after the semicolon (;) insert: providing legislative findings and intent; providing a definition; creating the Risk-Based Priority Council; providing mechanism for selecting the council; providing the length of life of the council; providing issues to be reviewed by the council; requiring a report; providing for a pilot project; requiring agencies to cooperate to fullest extent possible; housing the council in the Joint Legislative Management Committee for certain purposes;

On motion by Senator Burt, by two-thirds vote **CS for HB 855** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

Consideration of **SB 2690** was deferred.

On motion by Senator Harris, by two-thirds vote **HB 1909** was withdrawn from the Committees on Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Harris—

HB 1909—A bill to be entitled An act relating to the Department of Management Services; amending s. 255.249, F.S.; clarifying duties of the Division of Facilities Management of the Department of Management Services relating to certain buildings; repealing s. 255.245, F.S., relating to state-owned office buildings; providing an effective date.

—a companion measure, was substituted for **SB 1760** and read the second time by title. On motion by Senator Harris, by two-thirds vote **HB 1909** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

Consideration of **SB 1962** was deferred.

SB 312—A bill to be entitled An act relating to audits of district school boards; amending s. 11.45, F.S., relating to audits; requiring that an independent full-time auditor or certified public accountant hired by a school district report directly to the school board or its designee; providing an effective date.

—was read the second time by title.

Amendments were adopted to **SB 312** to conform the bill to **HB 1341**.

Pending further consideration of **SB 312** as amended, on motion by Senator Rossin, by two-thirds vote **HB 1341** was withdrawn from the Committees on Education; and Ways and Means.

On motion by Senator Rossin—

HB 1341—A bill to be entitled An act relating to audits of district school boards; amending s. 11.45, F.S., relating to audits; authorizing a district school board to employ an internal auditor; requiring a certified public accountant performing an audit to report directly to the district school board or its designee; providing an effective date.

—a companion measure, was substituted for **SB 312** and read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 1341** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

On motion by Senator Holzendorf, by two-thirds vote **HB 2219** was withdrawn from the Committee on Commerce and Economic Opportunities.

On motion by Senator Holzendorf—

HB 2219—A bill to be entitled An act relating to state government; amending s. 20.171, F.S.; renaming the Division of Labor, Employment, and Training of the Department of Labor and Employment Security as the Division of Jobs and Benefits; amending ss. 232.17, 288.047, 443.181, 443.211, 443.221, 446.011, 446.021, 446.032, 446.041, 446.045, 446.052, 446.061, 446.071, 446.075, 446.091, 446.20, 446.41, 447.02, 447.04, 447.06, 447.12, 447.16, 447.305, 450.012, 450.061, 450.121, 450.132, 450.161, and 450.28, F.S., to conform; providing an effective date.

—a companion measure, was substituted for **SB 1014** and read the second time by title. On motion by Senator Holzendorf, by two-thirds vote **HB 2219** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 2690—A bill to be entitled An act relating to alternative water supplies; amending s. 125.01, F.S.; providing power of counties to provide and regulate alternative water supplies and to establish taxing units therefor; amending ss. 153.02 and 153.52, F.S.; redefining "water system" to provide for the use of alternative water supplies in county water systems and water and sewer districts; amending s. 170.01, F.S.; authorizing municipalities to order construction or reconstruction of alternative water supply systems and to levy special assessments therefor; amending s. 180.02, F.S.; authorizing municipalities to require certain persons to connect to alternative water supplies; amending s. 180.06, F.S.; authorizing municipalities and certain private companies to provide alternative water supplies for domestic, municipal, or industrial use; amending s. 373.1961, F.S.; providing legislative findings and intent; requiring certain water management districts to annually budget for development of alternative water supply systems; providing for grants, matching grants, revolving loans, and use of district lands or facilities to water providers and users; providing legislative intent relating to development of rate structures; providing project eligibility criteria and guidelines for such funding; requiring establishment of grants advisory committees; providing for members; providing procedure for review of proposed projects; requiring annual disbursal of all available revenues if sufficient projects are approved; providing for annual reports; amending s. 403.064, F.S.; providing for the implementation of reuse of reclaimed water upon a determination of feasibility; providing exceptions and limitations to such implementation; authorizing the Department of Environmental Protection to contract for a study of alternative disinfection processes; providing for development of design and operation criteria for use of ultraviolet radiation or ozonation; providing for rules; providing an appropriation; providing an effective date.

—was read the second time by title.

Amendments were adopted to **SB 2690** to conform the bill to **HB 2609**.

Pending further consideration of **SB 2690** as amended, on motion by Senator Brown-Waite, by two-thirds vote—

HB 2609—A bill to be entitled An act relating to alternative water supplies; amending s. 125.01, F.S.; providing power of counties to provide and regulate alternative water supplies and to establish taxing units therefor; amending ss. 153.02 and 153.52, F.S.; redefining "water system" to provide for the use of alternative water supplies in county water systems and water and sewer districts; amending s. 170.01, F.S.; authorizing municipalities to order construction or reconstruction of alternative water supply systems and to levy special assessments therefor; amending s. 180.02, F.S.; authorizing municipalities to require certain persons to connect to alternative water supplies; amending s. 180.06, F.S.; authorizing municipalities and certain private companies to provide alternative water supplies for domestic, municipal, or industrial use; amending s. 373.1961, F.S.; providing that the governing board of a water management district shall engage in planning to assist private utilities; providing legislative findings 373.1961, F.S.; providing that the governing board of a water management district shall assist private utilities in meeting water supply needs; providing legislative findings 373.1961, F.S.; providing that the governing board of a water management district may create and operate facilities to supply water to private utilities; providing legislative findings 373.1961, F.S.; providing that the governing board of a water management district may join with private utilities to carry out any of its powers; providing legislative findings and intent; requiring certain water management districts to annually budget for development of alternative water supply systems; providing for grants, matching grants, revolving

loans and use of district lands or facilities to water providers and users; providing legislative intent relating to development of rate structures; providing project eligibility criteria and guidelines for such funding; requiring establishment of grants advisory committees; providing for members; providing procedure for review of proposed projects; requiring annual disbursal of all available revenues if sufficient projects are approved; providing for annual reports; amending s. 403.064, F.S.; providing for the implementation of reuse of reclaimed water upon a determination of feasibility; providing exceptions and limitations to such implementation; providing an appropriation; amending s. 373.0695, F.S.; providing that basin boards shall have certain responsibilities for planning and assisting private utilities; providing an effective date.

—a companion measure, was substituted for **SB 2690** and by two-thirds vote read the second time by title. On motion by Senator Brown-Waite, by two-thirds vote **HB 2609** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

MOTIONS

On motions by Senator Jennings, the rules were waived and by two-thirds vote **SB 1496, SB 68, SB 222, SB 684, CS for SB 2232, SB 272, SB 2168, CS for SB 2184, SB 1596** and **SB 702** were placed on the Special Order Calendar to be considered following **CS for SB 36**.

On motion by Senator McKay, the House was requested to return **SB 852**.

SB 1830—A bill to be entitled An act relating to state moneys; amending s. 215.32, F.S.; revising the funds into which all moneys received by the state must be deposited and within which they must be accounted for; specifying the manner of dividing these moneys into these funds; specifying the use and investment of moneys in these funds; repealing s. 212.081(4), F.S., relating to deposits of revenues to the Working Capital Fund; amending ss. 216.167, 216.221, 252.37, F.S.; conforming provisions pertaining to the existing funds to this revision; amending ss. 265.51, 265.55, F.S.; restricting authority of the Department of State to make agreements to indemnify for certain losses, and of the Comptroller to pay such claims, to specific appropriations for that purpose; repealing s. 420.5094, F.S., relating to the repayment of certain loans by the Florida Housing Finance Agency; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendment which was moved by Senator McKay and adopted:

Amendment 1 (with Title Amendment)—On page 12, after line 19, insert:

Section 9. Section 216.162, Florida Statutes, is amended to read:

216.162 Governor's recommended budget to be furnished Legislature; copies to members.—

(1) At least 45 days before the scheduled annual legislative session in each odd-numbered year, the Governor shall furnish each senator and representative a copy of his recommended balanced budget for the state, based on his own conclusions and judgment; provided, however, that in his first year in office a new Governor may request, subject to approval of the President of the Senate and the Speaker of the House of Representatives, that his recommended balanced budget be submitted at a later time prior to his first regular legislative session.

(2) There shall be included in such document the details of his recommended balanced budget, including his recommended appropriations pursuant to s. 216.163, his recommended revenues pursuant to s. 216.165, and a financial schedule showing that his estimates of state revenues will be sufficient to fund his recommendations pursuant to s. 216.167.

(3) In the event that any estimates made by the Consensus Estimating Conference pursuant to s. 216.136 and used by the Governor in his recommended budget submitted pursuant to subsection (1) are changed prior to the end of the annual legislative session, the Governor shall, within 10 days of the conference revisions, submit to the President of the Senate and the Speaker of the House of Representatives a revised recommended budget based on the new consensus estimates.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 20, after the semicolon (;) insert: amending s. 216.162, F.S.; requiring the Governor to revise his recommended budget under certain circumstances;

Senator Bankhead moved the following amendment which was adopted:

Amendment 2 (with Title Amendment)—On page 12, between lines 19 and 20, insert:

Section 9. Paragraph (c) of subsection (4) of section 112.215, Florida Statutes, is amended to read:

112.215 Government employees; deferred compensation program.—

(4)

(c) The Treasurer, with the approval of the State Board of Administration, may delegate responsibility for administration of the plan to a person he determines to be qualified, compensate such person, and, directly or through such person or pursuant to a collective bargaining agreement, contract with a private corporation or institution to provide such services as may be part of any such plan or as may be deemed necessary or proper by the Treasurer or such person, including, but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, ~~and~~ asset purchase, control, and safekeeping, *and direct disbursement of funds to employees or other beneficiaries. The Treasurer may authorize a person, private corporation, or institution to make direct disbursement of funds under the plan to an employee or other beneficiary only upon the order of the Comptroller to the Treasurer.*

Section 10. Section 125.325, Florida Statutes, is created to read:

125.325 Loans to public agencies authorized.—Notwithstanding the provisions of s. 163.01, a legal entity created pursuant to interlocal agreement under s. 163.01, the membership of which entity consists of at least three counties, may loan the proceeds of obligations issued by such entity to any public agency as provided in s. 163.01(3)(b) whether or not such agency is a member of the entity. Such entity may have as members, in addition to counties, other public agencies as described in s. 163.01(3)(b) and may loan the proceeds of obligations to such public agencies for purposes of financing or refinancing capital projects or working capital if such agencies are otherwise authorized to incur debt.

Section 11. Subsection (14) is added to section 215.47, Florida Statutes, 1994 Supplement, to read:

215.47 Investments; authorized securities.—Subject to the limitations and conditions of the State Constitution or of the trust agreement relating to a trust fund, moneys available for investments under ss. 215.44-215.53 may be invested as follows:

(14) The board is authorized to invest in domestic and foreign group trusts.

Section 12. Subsections (4) and (9) of section 280.02, Florida Statutes, are amended, subsections (15), (16), and (18) are renumbered as subsections (16), (17), and (19), respectively, present subsection (17) is renumbered and amended, and a new subsection (15) is added to said section, to read:

280.02 Definitions.—As used in this chapter, the term:

(4) "Collateral-pledging level," for qualified public depositories, means *the percentage* ~~that level~~ of collateral ~~determined and~~ required to be pledged as provided in s. 280.04.

(9) "Eligible collateral" means securities as designated in *s.* ~~ss.~~ 280.13 ~~and 280.14~~.

(15) "Public deposits program" means the administration of this chapter by or on behalf of the Treasurer.

(18)~~(17)~~ "Required collateral" of a qualified public depository means eligible collateral having a market value equal to or in excess of the *amount required to be pledged* ~~average daily balance times the depository's collateral pledging level required~~ pursuant to s. 280.04 as computed and reported monthly or when requested by the Treasurer ~~or 25 percent of the average monthly balance, whichever is greater~~.

Section 13. Subsection (1) of section 280.03, Florida Statutes, is amended to read:

280.03 Public deposits to be secured; exceptions.—

(1) ~~On and after January 1, 1982,~~ All public deposits shall be secured as provided in this chapter. Public funds shall not be deposited directly or indirectly in negotiable certificates of deposit. Except as otherwise provided by law, no public deposit may be made except in a qualified public depository.

Section 14. Section 280.04, Florida Statutes, is amended to read:

280.04 Collateral for public deposits; general provisions.—

(1) Every qualified public depository shall deposit with the Treasurer eligible collateral equal to or in excess of the required collateral of the depository to be held subject to his order. ~~Unless~~ The Treasurer, *by rule, shall establish* ~~has otherwise expressly established a~~ minimum ~~amount of~~ required collateral ~~or different collateral~~ pledging levels and *shall notify each* ~~officially notified the affected~~ qualified public depository *of its required pledging level.*~~,~~ Each qualified public depository shall calculate the amount of its required collateral based upon any one or any combination of the following formulas:

(a) *The greater of the average daily balance of public deposits multiplied by the depository's minimum required collateral pledging level, or 25 percent of the average monthly balance of public deposits* ~~Fifty percent of public deposits equal to or less than capital accounts~~, unless otherwise required by paragraph (b), paragraph (c), or paragraph (d).

(b) One hundred twenty-five percent of *the average daily balance of* public deposits in excess of capital accounts.

(c) One hundred twenty-five percent of *the average daily balance of* public deposits if the qualified public depository:

1. Has been established for less than 3 years;

2. Has experienced decreases in its capital accounts; or

3. Has an overall financial condition which is deteriorating.

(d) One hundred twenty-five percent of *the average daily balance of* public deposits in excess of 20 percent of the total public deposits held by all qualified public depositories of the same type, i.e., banks or savings associations. The Treasurer shall determine the total public deposits held based on the immediately preceding 12-month average. That 12-month average amount must be disseminated to the qualified public depositories at such time and in such manner as the Treasurer determines appropriate.

(2) With the approval of the Treasurer, a qualified public depository may deposit eligible collateral with a custodian subject to order of the Treasurer.

(a) If eligible collateral consisting of registered *definitive* ~~certificated~~ securities is deposited, and~~:~~

~~1.~~ the securities are held by the Treasurer or other custodian and are in the name of the qualified public depository, the Treasurer may require the qualified public depository owning the ~~registered certificated~~ securities to execute and deliver to the Treasurer a separate certified power of attorney or bond power or other bond assignment form required by the bond agent or bond trustee authorizing the Treasurer to transfer ownership of such securities for the purposes provided in this chapter. A certified copy of a corporate resolution or other resolution adopted by the qualified public depository's governing body authorizing the execution of the power of attorney or bond power or other bond assignment form for each issue of security must be delivered to the Treasurer with the certified power of attorney, bond power, or bond assignment.

(b)~~2.~~ *If eligible collateral, consisting of registered definitive securities, is deposited and* the securities are held by a custodian other than the Treasurer and are in the name of the custodian or in the name of a nominee, the Treasurer may require the custodian to execute and deliver to the Treasurer a separate certified power of attorney or bond power or other bond assignment form required by the bond agent or bond trustee authorizing the Treasurer to transfer ownership of such securities for the purposes provided in this chapter. A certified copy of a corporate resolution or other resolution adopted by the custodian's governing body authorizing the execution of the power of attorney or bond power or other bond assignment form for each issue of security must be delivered to the Treasurer with the certified power of attorney, bond power, or bond assignment.

(c)~~(b)~~ A qualified public depository may not accept any public deposit that would increase its average daily balance for the current month by 25 percent over the average daily balance for the previously reported month unless it deposits or has on deposit additional required collateral to secure such increase within 48 hours of the deposit.

(d)~~(c)~~ A qualified public depository may not accept or retain any public deposit which is required to be secured unless it has deposited eligible collateral equal to its required collateral pursuant to this chapter.

(3) For reporting purposes, each qualified public depository shall value its collateral at market *price* ~~value~~ as of the close of business on the last banking day in the reported month, *or as of a date specified by rule of the Treasurer,* except that any *material* ~~extraordinary~~ decline in value between such day and the date of mailing the monthly report to the Treasurer shall be considered and used for reporting purposes.

(4) Unless the Treasurer has officially notified the qualified public depository that a substitution may not be made, a substitution of collateral may be made by the qualified public depository at any time if the market value of the securities substituted is equal to or greater than the market value of the securities withdrawn. At the time of making a substitution, the depository shall *simultaneously* submit a request for the substitution, upon a form approved by the Treasurer, ~~and shall deliver the request~~ to the custodian of the securities and to the Treasurer.

(5) Except in cases of substitution as provided in subsection (4), a qualified public depository may not withdraw collateral previously pledged without the prior approval of the Treasurer.

(6) A custodian other than the Treasurer holding securities as collateral for a qualified public depository shall not permit the depository to withdraw the collateral without the prior written approval of the Treasurer, except in cases of substitution as provided in subsection (4).

(7) A qualified public depository that violates subsection (5) or a custodian that violates subsection (6) is subject to the penalties provided in s. 280.054*(3)*.

Section 15. Paragraph (a) of subsection (3) and subsections (9), (11), and (14) of section 280.05, Florida Statutes, are amended to read:

280 05 Powers and duties of the Treasurer.—In fulfilling the requirements of this act, the Treasurer has the power to:

(3) Suspend or disqualify or disqualify after suspension any qualified public depository that has violated any of the provisions of this chapter or of rules adopted hereunder.

(a) Any public depository that is suspended or disqualified pursuant to this subsection is subject to the provisions of s. 280.11*(2)* governing withdrawal from the public deposits program and return of pledged collateral. Any suspension shall not exceed a period of 6 months. Any qualified public depository which has been disqualified may not reapply for qualification until after the expiration of 1 year from the date of the final order of disqualification or the final disposition of any appeal taken therefrom.

(9) Appoint two separate three-member advisory committees, one for banks and one for savings associations, to review and recommend criteria to be used by the Treasurer for purposes stated in subsection (6) in order to protect public deposits and the depositories in the program. Each member selected to serve on an advisory committee must be a representative of his respective industry. ~~and~~ *Advisory committee members must represent active qualified public depositories, not in the process of withdrawing from the public deposits program, in compliance with all applicable rules, regulations, and reporting requirements of this chapter. Members* must possess knowledge, skill, and experience in one or more of the following areas:

(a) Financial analysis;

(b) Trend analysis;

(c) Accounting;

(d) Banking;

(e) Risk management; or

(f) Investment management.

Members' terms shall be for 4 years, except that in making the initial appointments, the Treasurer shall appoint from each group one member to serve 2 years, one member to serve 3 years, and one member to serve 4 years. Any person appointed to fill a vacancy on the advisory committees may serve only for the remainder of the unexpired term. Any member is eligible for reappointment and shall serve until a successor qualifies. The Treasurer shall appoint a member of each advisory committee to serve as its initial chairman. Thereafter, each advisory committee shall elect a chairman *and* ~~annually. Each advisory committee shall annually elect an advisory committee member to serve as~~ vice chairman and shall *also* designate a secretary who need not be a member of the advisory committee. Each secretary shall keep a record of the proceedings of his advisory committee and shall be the custodian of all printed materials filed with or by the advisory committee. Notwithstanding the existence of vacancies on the advisory committee, a majority of the members constitutes a quorum. *Neither* ~~Each~~ advisory committee may ~~not~~ take official action in the absence of a quorum. Each member may name a designee to serve on the advisory committee on behalf of the member. However, any designee so named must meet the qualifications required of the selected member and be approved by the Treasurer. The advisory committees shall convene as needed.

(11) Review, implement, monitor, evaluate, and modify, as needed, all or any part of the standards and policies recommended by *an* ~~the~~ advisory committee.

(14) *Require the filing of and inspect, review, or analyze* ~~Audit or verify~~ the following ~~reports~~:

(a) Public depository monthly reports and schedules.~~;~~

(b) Quarterly regulatory reports from qualified public depositories.~~;~~

(c) Public depository annual reports.~~; and~~

(d) Public depositors annual reports.

(e) Any related documents, reports, records, or other information deemed necessary by the Treasurer in order to ascertain compliance with this chapter.

Section 16. Subsections (8), (9), (10), (11), and (12) of section 280.051, Florida Statutes, are renumbered as subsections (9), (10), (11), (12), and (13), respectively, and a new subsection (8) is added to said section, to read:

280.051 Grounds for suspension or disqualification of a qualified public depository.—A qualified public depository may be suspended or disqualified or both if the Treasurer determines that the qualified public depository has:

(8) Failed to furnish any agreement, report, form, or other information required to be filed pursuant to s. 280.16, or when requested by the Treasurer.

Section 17. Subsection (1) of section 280.052, Florida Statutes, is amended to read:

280.052 Order of suspension or disqualification; procedure.—

(1) The suspension or disqualification of a bank or savings association as a qualified public depository must be by order of the Treasurer *and shall be* mailed to the qualified public depository by registered or certified mail.

Section 18. The introductory paragraph and subsection (5) of section 280.08, Florida Statutes, are amended, and subsection (7) is added to that section, to read:

280.08 Procedure for payment of losses.—When the Treasurer determines that a default or insolvency has occurred, he shall provide notice as required in s. 280.085*(1)* and implement the following procedures:

(5) The Treasurer shall distribute the funds to the public depositors of the qualified public depository in default according to their validated claims. *The Treasurer, at his discretion, may make partial payments to public depositors that have experienced a loss of public funds which is critical to the immediate operations of the public entity. The public depositor requesting partial payment of a claim shall provide the Treasurer with written documentation justifying the need for partial payment.*

(7) Expenses incurred by the Treasurer in connection with a default or insolvency that is not normally incurred by the Treasurer in the administration of this act shall be paid out of the proceeds from the sale of pledged collateral.

Section 19. Subsection (2) of section 280.09, Florida Statutes, is amended to read:

280.09 Public Deposits Trust Fund.—

(2) The Treasurer is authorized to pay any losses to public depositors from the fund, and there are hereby appropriated from the fund such sums as may be necessary from time to time to pay the losses. The term "losses," for purposes of this chapter, shall also include losses of interest or other accumulations to the public depositor as a result of penalties for early withdrawal required by Depository Institution Deregulatory Commission regulations or applicable successor federal laws or regulations because of suspension or disqualification of a qualified public depository by the Treasurer pursuant to s. 280.05*(3)* or because of withdrawal from the public deposits program pursuant to s. 280.11. In that event, the Treasurer is authorized to assess against the suspended, disqualified, or withdrawing public depository, in addition to any amount authorized by any other provision of this chapter, an administrative penalty equal to the amount of the early withdrawal penalty and to pay that amount over to the public depositor as reimbursement for such loss. Any money in the fund estimated not to be needed for immediate cash requirements shall be invested pursuant to s. 18.125.

Section 20. Subsection (1) of section 280.10, Florida Statutes, is amended to read:

280.10 Effect of merger or acquisition; change of name or address.—

(1) In the event a qualified public depository is merged into, acquired by, or consolidated with a bank or savings association that is not a qualified public depository, the resulting institution shall become a qualified public depository, and the contingent liability of the former institution shall be a liability of the resulting institution. Within 30 days after the effective date of the merger, acquisition, or consolidation, the resulting institution shall execute in its own name and deliver to the Treasurer the contingent liability agreement required by s. 280.07, *and all information and documentation as may be required for participation in the public deposits program.* If the resulting institution chooses not to remain a qualified public depository, *or does not meet the requirements to become a qualified public depository, such institution* ~~it~~ shall comply with the procedures for withdrawal from the program as provided in s. 280.11.

Section 21. Subsections (1) and (2) of section 280.11, Florida Statutes, are amended to read:

280.11 Withdrawal from public deposits program; return of pledged collateral.—

(1) A qualified public depository may withdraw from the public deposits program by giving written notice to the Treasurer. The contingent liability, required collateral, and reporting requirements of the depository withdrawing from the program shall continue for a period of 12 months after the effective date of the withdrawal, *except that the filing of reports may no longer be required when the average monthly balance of public deposits is equal to zero.* Notice of withdrawal shall be mailed or delivered in sufficient time to be received by the Treasurer at least 30 days before the effective date of withdrawal. The Treasurer shall timely publish the withdrawal notice in the Florida Administrative Weekly which shall constitute notice to all depositors. The withdrawing depository shall not receive or retain public deposits after the effective date of the withdrawal until such time as it again becomes a qualified public depository. ~~Beginning 30 days after the effective date of withdrawal and upon confirmation by the Treasurer that the withdrawing depository no longer holds any public deposits,~~ The Treasurer shall, upon request, return to the depository that portion of the collateral pledged that is in excess of the required collateral as reported on the current public depository monthly report. Losses of interest or other accumulations, if any, because of withdrawal under this section shall be assessed and paid as provided in s. 280.09(2).

(2) A qualified public depository *that* ~~which~~ has been disqualified pursuant to s. 280.051 shall not receive or retain public deposits after the effective date of the disqualification. Notice of and procedures for disqualification shall be made in accordance with ss. 280.052 and 280.053. ~~Beginning 30 days after the effective date of disqualification and upon~~

~~confirmation by the Treasurer that the disqualified public depository no longer holds any public deposits,~~ The Treasurer shall, upon request, return to the depository that portion of the collateral pledged that is in excess of the required collateral as reported on the current public depository monthly report. Losses of interest or other accumulation, if any, because of disqualification shall be paid as provided in s. 280.09(2).

Section 22. Section 280.13, Florida Statutes, is amended to read:

280.13 Collateral eligible for pledge by banks *and savings associations.*—

(1) Securities eligible to be pledged as collateral by banks *and savings associations* shall be limited to:

(a) *Direct* obligations of the United States *Government.*

(b) Obligations of any federal agency *which* ~~that~~ are fully guaranteed as to payment of principal and interest by the United States *Government.*

(c) Obligations of *the following* federal *agencies:*

1. Farm credit banks.

2.~~(d) Obligations of~~ Federal land banks.

3.~~(e) Obligations of~~ The Federal Home Loan Bank and its district banks, *including time deposits.*

4.~~(f) Obligations of~~ Federal intermediate credit banks.

5.~~(g) Obligations of~~ The Federal Home Loan Mortgage Corporation~~, including participation certificates~~.

6.~~(h) Obligations of~~ The Federal National Mortgage Association~~, including participation certificates~~.

7.~~(i)~~ Obligations guaranteed by the Government National Mortgage Association.

(d)~~(j)~~ General obligations of a state of the United States, or of Puerto Rico, or of a political subdivision or municipality thereof.

(e)~~(k)~~ Obligations issued by the Florida State Board of Education under authority of the State Constitution or applicable statutes.

(f)~~(l) County or municipal~~ Tax anticipation certificates or warrants *of counties or municipalities* having maturities not exceeding 1 year.

(g)~~(m) Obligations of a~~ Public housing authority *obligations.*

(h)~~(n) Any single issue of~~ Revenue bonds or certificates of a state of the United States or of a political subdivision or municipality thereof.

(i)~~(o)~~ Corporate bonds of any corporation that is not an affiliate or subsidiary of the qualified public depository.

(2) In addition to the securities listed in subsection (1), the Treasurer may, in his discretion, allow the pledge of the following types of securities. The Treasurer shall, by rule, define any restrictions, specific criteria, or circumstances for which these instruments will be acceptable.

(a) Securities of, or other interests in, any open-end management ~~type~~ investment company ~~or investment trust~~ registered under the Investment Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended from time to time, provided the portfolio of such investment company ~~or investment trust~~ is limited to *direct obligations of the* United States Government ~~obligations~~ and to repurchase agreements fully collateralized by such *direct obligations of the* United States Government ~~obligations~~ and provided such investment company or investment trust takes delivery of such collateral either directly or through an authorized custodian.

(b) Collateralized mortgage obligations.

(c) Real estate mortgage investment conduits.

(d) Certificates of deposit.

(3) Except as to *obligations issued by or with respect to which payment of interest and principal is guaranteed by* ~~bonds, notes, and bills of~~ the United States *Government* or *obligations of federal agencies listed in subsection (1)*~~, bonds and notes with respect to which the payment of principal and interest is guaranteed by the United States, or federal certificates of indebtedness~~, the *debt obligations* ~~bonds and notes or certificates~~ mentioned in this section shall be rated in one of the four highest classifications by an established, nationally recognized investment rating service.

(4) To be eligible as collateral under this section, all *debt obligations* ~~bonds or certificates of indebtedness~~ shall be interest bearing or accruing.

(5) The Treasurer may disapprove any security that does not meet the requirements of this section or any rule adopted pursuant to this section *or any security for which no current market price can be obtained from a nationally recognized source deemed acceptable to the Treasurer.*

Section 23. Subsection (2) of section 280.16, Florida Statutes, is amended to read:

280.16 Reports of public depositories.—

(2) Annually, not later than November 15, each qualified public depository shall cause to be delivered to the Treasurer, from *the president or chief executive officer of the depository or* a person qualified to conduct audits, a statement of all public deposits held for the credit of all public depositors at the close of business on September 30 each year.

Section 24. Section 280.17, Florida Statutes, is amended to read:

280.17 Requirements for public depositors.—In addition to any other requirement specified in this chapter, public depositors must comply with the following requirements:

(1) Each public depositor must ensure that the name of the public depositor is on the account or certificate or other form provided to the public depositor by the qualified public depository in a manner sufficient to *identify that the account is a* ~~disclose the identity of the~~ public *deposit* ~~depositor~~.

(2) Each public depositor who has assets on deposit in a qualified public depository that is in default or is insolvent must notify the Treasurer of that fact immediately after receiving notice of the default or insolvency from the receiver of the depository.

(3) Annually, not later than November 15, each public depositor shall notify the Treasurer of its official name, address, federal employer identification number, and account balances at the close of business on September 30. This notification shall include ~~the name of the person or persons responsible for establishing depository accounts;~~ the name of the institutions with whom accounts are established~~;~~ and, for each institution listed, the account name, number, balance, type, and federal employer identification number.

(4) A public entity established during the year shall furnish its official name, address, federal employer identification number~~, and name of the person or persons responsible for establishing accounts~~ to the Treasurer prior to making any public deposit.

(5) If a public depositor does not comply with this section, the *protection from loss* ~~waiver of immunity~~ provided in s. 280.18 is not effective as to that public depositor.

Section 25. Sections 215.84, 215.845, and subsections (4) and (5) of section 159.825, Florida Statutes, are repealed.

Section 26. Sections 280.14 and 280.20, Florida Statutes, are repealed.

Section 27. Paragraph (g) is added to subsection (7) of section 163.01, Florida Statutes, to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(7)

(g) Notwithstanding any other provision of this section, a separate legal entity, created pursuant to the provisions of this section, the membership of which is limited to public agencies of the state, may acquire, own, construct, improve, operate, and manage a water utility, a sewer utility, and a utility providing alternative water supplies, including, but not limited to, reclaimed water, water from aquifer storage, and recovery and desalinization systems. Notwithstanding the provisions of s. 367.171(7), any separate legal entity created under this paragraph shall not be subject to commission jurisdiction. Such entity may finance or refinance the acquisition, construction, expansion, and improvement of said utility through the issuance of its bonds, notes, or other obligations

in the manner authorized for an entity created by electric utilities in paragraph (c) and such bonds, notes, or other obligations may be validated in the manner that bonds authorized by an entity created by electric utilities in paragraph (c) may be validated; however, s. 75.04(2) does not apply to a complaint for validation brought by such legal entity. Such entity shall have all the powers provided by the interlocal agreement pursuant to which it is created or which are necessary to own, operate, or manage such utility, including, without limitation, the power to establish rates, charges, and fees, the power to levy special assessments, the power to sell all or a portion of its utility, and the power to contract with a public or private entity to manage and operate its utility or to provide or receive utility services or products. Except as may be limited by the interlocal agreement pursuant to which it is created, all of the privileges, benefits, powers, and terms of s. 125.01, relating to counties, and s. 166.021, relating to municipalities, shall be fully applicable to such entity. Bonds, notes, and other obligations issued by such entity shall be deemed issued on behalf of the public agencies which are members of such entity. The bonds, notes, and other obligations of such entities, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation of any kind by the state or by any political subdivision or other agency or instrumentality thereof. The exemption granted under this paragraph shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 20, after the semicolon (;) insert: amending s. 112.215, F.S.; providing for direct disbursement of certain funds to employees or beneficiaries; creating s. 125.325, F.S.; authorizing certain entities to loan proceeds of obligations issued by such entities under certain circumstances; amending s. 215.47, F.S.; authorizing investment in domestic and foreign trusts; amending s. 280.02, F.S.; revising definitions; amending s. 280.03, F.S.; deleting obsolete language; amending s. 280.04, F.S.; clarifying requirements for pledging collateral by qualified public depositories; amending s. 280.05, F.S.; clarifying duties of the Treasurer in administering the public deposits program; amending s. 280.051, F.S.; expanding the grounds for which the Treasurer may suspend or disqualify a qualified public depository; amending s. 280.052, F.S.; requiring the mailing of a suspension or disqualification order to a qualified public depository; amending s. 280.08, F.S.; authorizing the Treasurer to make partial payments from the Public Deposits Trust Fund to certain public depositors; authorizing the Treasurer to deduct certain expenses from the sale of pledged collateral; amending s. 280.09, F.S.; clarifying a cross-reference; amending s. 280.10, F.S.; clarifying requirements when a qualified public depository is merged, acquired, or consolidated with certain entities; amending s. 280.11, F.S.; providing an exception to certain report filing requirements; amending s 280.13, F.S.; clarifying collateral eligible for pledge by banks and savings associations; amending s. 280.16, F.S.; specifying persons required to deliver certain reports to the Treasurer; amending s. 280.17, F.S.; revising certain notice requirements for public depositors; repealing s. 215.84, F.S., which establishes the maximum rate of interest for government bonds; repealing s. 215.845, F.S., which prohibits certain special laws establishing interest rates on bonds; repealing s. 159.825 (4) and (5), F.S., which establish the rate of interest at which specified taxable bonds bear interest; repealing s. 280.14, F.S., relating to collateral eligible for pledge by savings associations; repealing s. 280.20, F.S., relating to the Security for Public Deposits Task Force; amending s. 163.01, F.S.; authorizing certain legal entities created pursuant to interlocal agreement to own, operate, and manage specified water utilities and systems; exempting such entities from commission jurisdiction; providing for powers of such entities; providing for issuance of bonds, notes, and other obligations by such utilities; providing exemption from certain taxes;

On motion by Senator McKay, by two-thirds vote **SB 1830** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33 Nays—None

On motion by Senator Harden, by two-thirds vote **CS for HB 735** was withdrawn from the Committees on Natural Resources; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Harden—

CS for HB 735—A bill to be entitled An act relating to state lands; amending s. 259.101, F.S.; revising provisions with respect to the Florida Preservation 2000 Act to provide for the disposition of certain lands and to provide for the alternate governmental use of acquired lands; providing for retroactive application; providing an effective date.

—a companion measure, was substituted for **SB 1348** and read the second time by title. On motion by Senator Harden, by two-thirds vote **CS for HB 735** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

CS for SB 2140—A bill to be entitled An act relating to pollution caused by drycleaning solvents; amending s. 376.301, F.S.; revising and adding definitions; amending s. 376.303, F.S.; revising the powers and duties of the Department of Environmental Protection pertaining to the registration program for drycleaning facilities and wholesale supply facilities; amending s. 376.3078, F.S.; revising the requirements pertaining to the drycleaning facility restoration fund; providing immunity under certain circumstances; amending s. 376.3079, F.S.; revising the third-party liability insurance provision; amending s. 376.308, F.S.; revising the liability of facilities; amending s. 376.313, F.S.; revising the provisions for civil actions against facilities; amending s. 376.70, F.S.; providing that uniform-rental and linen-supply companies are not subject to the tax imposed on gross receipts of drycleaning facilities; requiring the Department of Revenue to refund taxes and fees that have been remitted; repealing s. 376.70(4), F.S., relating to an exemption from gross receipts tax on drycleaning facilities; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendments which were moved by Senator McKay and failed:

Amendment 1—On page 12, line 28, strike "state" and insert: *local,* state,

Amendment 2 (with Title Amendment)—On page 20, between lines 2 and 3, insert:

(6) REQUIREMENT FOR DRYCLEANING FACILITIES.—It is the intent of the Legislature that the following drycleaning solvent containment protocols be required of the owners or operators of drycleaning facilities, as follows:

(a) Owners or operators of drycleaning facilities shall by January 1, 1997, install dikes or other containment structures around each machine or item of equipment in which drycleaning solvents are used and around any area in which solvents or wastes containing solvents are stored. Such dikes or containment structures shall be capable of containing 110 percent of the capacity of each machine and each storage container.

(b) For drycleaning facilities that commence operating after January 1, 1996, the owners or operators of such facilities shall, before commencing operations, install beneath each machine or item of equipment in which drycleaning solvents are used a rigid and impermeable containment vessel capable of containing 110 percent of the capacity of the total tank capacity of each machine.

(c) Notwithstanding subsection (3), the owner of a drycleaning facility or wholesale supply facility at which there is a spill of more than 1 quart of drycleaning solvent outside of a containment structure on or after July 1, 1995, shall report the spill to the department through the warning point telephone line immediately upon the discovery of such spill, and shall immediately initiate and complete response actions to abate the source of the spill, removing free product from all indoor and outdoor surface areas, removing free and dissolved product from any septic tank or catch basin in which the solvent has accumulated, and removing affected soils, if any. Costs incurred by an owner for such response actions, up to a maximum of $10,000 in the aggregate for all

spills at a single facility, shall be credited to the owner as against future gross receipts tax set forth in s. 376.70 and, in the case of the owner of a wholesale supply facility, as against future tax on production or importation of perchloroethylene, as set forth in s. 376.75.

And the title is amended as follows:

In title, on page 1, line 13, after the semicolon (;) insert: providing solvent containment protocols for owners or operators of drycleaning facilities; providing procedures with respect to a spill of drycleaning solvent; providing for a tax credit for costs incurred in a response action to a spill;

Amendment 3 (with Title Amendment)—On page 25, strike all of lines 10-12 and renumber subsequent sections.

And the title is amended as follows:

In title, on page 1, strike all of lines 24-26 and insert: remitted; providing an

Amendment 4 (with Title Amendment)—On page 25, between lines 12 and 13, insert:

Section 10. Section 376.75, Florida Statutes, 1994 Supplement, is amended to read:

376.75 Tax on production or importation of perchloroethylene.—

(1) Beginning October 1, *1995* ~~1994~~, a tax *of $5 per gallon* is levied on the *sale or transfer of* ~~privilege of producing in, importing into, or causing to be imported into the state~~ perchloroethylene (tetrachloroethylene) *in this state to a drycleaning facility located in this state or the import of perchloroethylene into this state by a drycleaning facility.* ~~A tax of $5 per gallon is levied on each gallon of perchloroethylene when first imported into or produced in the state. The tax is imposed when transfer of title or possession, or both, of the product occurs in this state or when the product commingles with the general mass of this state.~~

(2) Any person producing in, importing into, or causing to be imported into, *or selling or transferring in,* this state perchloroethylene ~~for sale, use, or otherwise~~ must register with the Department of Revenue and become licensed for the purposes of remitting the tax pursuant to, *or providing information required by,* this section. Such person must register as *a seller of perchloroethylene, a user of perchloroethylene in drycleaning facilities, or a user of perchloroethylene for purposes other than drycleaning* ~~either a producer or importer of perchloroethylene~~. Persons operating at more than one location are only required to have a single registration. The fee for registration is $30. Failure to timely register is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) The tax imposed by this section *during any calendar month* is due *and payable* ~~on the first day of the month succeeding the month of production, importation, or removal from a storage facility and must be paid~~ on or before the 20th day *following the end of such calendar* ~~of each~~ month. Tax shall be reported on forms and in the manner prescribed by the Department of Revenue by rule.

(4) Any person subject to taxation under this section or any person who sells tax-paid perchloroethylene, other than a retail dealer, must separately state the amount of such tax paid on any charge ticket, sales slip, invoice, or other tangible evidence of the sale or must certify on the sales document that the tax required pursuant to this section has been paid.

(5) All perchloroethylene imported, produced, or sold in this state is presumed to be subject to the tax imposed by this section. Any person~~, except the final retail consumer,~~ who has purchased perchloroethylene for ~~sale,~~ use~~, consumption, or distribution~~ in *such person's drycleaning facility in* this state must document that the tax imposed by this section has been paid or must pay such tax directly to the Department of Revenue in accordance with subsection (3).

(6) For purposes of this section, to demonstrate that perchloroethylene is not sold or transferred to a drycleaning facility for eventual use in a drycleaning facility in this state, a person may rely on a certificate signed under penalty of perjury by a transferee of the perchloroethylene stating that the transferee does not own or operate a drycleaning facility or the transferee will not use the perchloroethylene in a drycleaning facility in this state. Any producer, importer, seller, or other transferor of perchloroethylene who is required to register in accordance with subsection (2), but who does not make any taxable sales or taxable transfers during a year, shall file with the Department of Revenue a form containing the quantity of perchloroethylene sold or transferred, a statement indicating that all sales were exempt from tax, and such other information as the Department of Revenue may prescribe.

(7)~~(6)~~ The Department of Revenue ~~may authorize a quarterly return and payment when the tax remitted by the licensee for the preceding quarter did not exceed $100;~~ may authorize a semiannual return and payment when the tax remitted by the licensee for the preceding 6 months did not exceed $200~~;~~ and may authorize an annual return and payment when the tax remitted by the licensee for the preceding 12 months did not exceed $400.

(8)~~(7)~~ The tax imposed by this section shall be reported to the Department of Revenue. The payment shall be accompanied by such forms as the Department of Revenue prescribes. The proceeds of the tax, after deducting the administrative costs incurred by the Department of Revenue in administering, auditing, collecting, distributing, and enforcing the tax, shall be transferred by the Department of Revenue into the Hazardous Waste Management Trust Fund and shall be used as provided in s. 376.3078. For the purposes of this section, the proceeds of the tax include all funds collected and received by the Department of Revenue, including interest and penalties on delinquent taxes.

(9)~~(8)~~(a) The Department of Revenue shall administer, collect, and enforce the tax authorized under this section pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of part I of chapter 212 regarding the authority to audit and make assessments, the keeping of books and records, and interest and penalties on delinquent taxes shall apply. The tax shall not be included in the computation of estimated taxes pursuant to s. 212.11, nor shall the dealer's credit for collecting taxes or fees in s. 212.12 apply to the tax. The provisions of s. 212.07(4) shall not apply to the tax imposed by this section.

(b) The Department of Revenue, under the applicable rules of the Public Employees Relations Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The Department of Revenue is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section.

(c) The Department of Revenue is authorized to establish audit procedures and to assess delinquent taxes.

(10)~~(9)~~ The Legislature declares that the failure to promptly implement the provisions of this section would present an immediate threat to the welfare of the state. Therefore, the executive director of the Department of Revenue is authorized to adopt emergency rules pursuant to s. 120.54(9) to implement this section. Notwithstanding any other provision of law, such emergency rules shall remain effective for 180 days from the date of adoption. Other rules of the Department of Revenue related to and in furtherance of the orderly implementation of this section shall not be subject to a s. 120.54(4) rule challenge or a s. 120.54(17) drawout proceeding, but, once adopted, shall be subject to a s. 120.56 invalidity challenge. Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(13).

(11)~~(10)~~ *If perchloroethylene on which tax has been paid is exported from this state or acquired for purposes other than use in a drycleaning facility in this state for sale, resale, or other transfer for such use, the person that paid the tax to the Department of Revenue may apply for a refund of such tax paid. The person applying for the refund or credit must refund such tax to the person who incurred the burden of the tax before the claim to the state for refund or credit will be approved.* ~~Perchloroethylene exported from the first storage facility at which it is held in this state by the producer or importer is exempt from the tax pursuant to this section. Anyone exporting perchloroethylene on which tax has been paid may apply for a refund or credit. The Department of Revenue may require such information as it deems necessary in order to approve the refund or credit.~~

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 26, following the semicolon (;) insert: amending s. 376.75, F.S.; revising and clarifying provisions imposing a tax on production or importation of perchloroethylene; providing penalties;

Amendment 5—On page 25, strike all of lines 13 and 24 and insert:

Section 10. That act shall take effect July 1, 1995.

Senator McKay moved the following amendment:

Amendment 6 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Subsections (7), (8), and (10) of section 376.301, Florida Statutes, 1994 Supplement, are amended, subsections (24), (25), (26), and (27) are redesignated as subsections (25), (26), (27), and (28), respectively, and a new subsection (24) is added to that section, to read:

376.301 Definitions of terms used in ss. 376.30-376.319, 376.70, and 376.75.—When used in ss. 376.30-376.319, 376.70, and 376.75, unless the context clearly requires otherwise, the term:

(7) "Drycleaning facility" means a commercial establishment that operates or has at some time in the past operated ~~in whole or in part~~ for the *primary* purpose of *drycleaning* ~~cleaning~~ clothing and other fabrics utilizing a process that involves any use of drycleaning solvents. The term "drycleaning facility" includes laundry facilities that use *drycleaning* solvents as part of their cleaning process.~~,~~ *The term does not include* uniform rental companies, and linen supply companies *regardless of whether the facility was previously operated as a drycleaning facility.*

(8) "Drycleaning solvents" means any and all nonaqueous solvents used in the cleaning of clothing and other fabrics and includes perchloroethylene (also known as tetrachloroethylene) and petroleum-based solvents, and their breakdown products. For purposes of this definition, "drycleaning solvents" only includes those drycleaning solvents originating from use at a drycleaning facility or by a wholesale *supply facility* ~~supplier~~.

(10) "Wholesale *supply facility* ~~supplier~~" means a *commercial establishment* ~~facility~~ that supplies ~~to commercial drycleaning establishments~~ drycleaning solvents *to drycleaning facilities* ~~and other supplies necessary to the operation of such commercial drycleaning establishments~~.

(24) "Real property owner" means the individual or entity that is vested with ownership, dominion, or legal or rightful title to the real property, or which has a ground lease interest in the real property, on which a drycleaning facility or wholesale supply facility is or has ever been located.

Section 2. Paragraph (d) of subsection (1) of section 376.303, Florida Statutes, 1994 Supplement, is amended to read:

376.303 Powers and duties of the Department of Environmental Protection.—

(1) The department has the power and the duty to:

(d) Establish a registration program for drycleaning facilities and wholesale *supply facilities* ~~suppliers~~.

1. Owners or operators of drycleaning facilities and wholesale *supply facilities and real property owners* suppliers shall *jointly* register each facility owned and in operation with the department by June 30, 1995, pay initial registration fees by December 31, 1995, and pay annual renewal registration fees by December 31, 1996, and each year thereafter, in accordance with this subsection. *If the registration form cannot be jointly submitted, then the applicant shall provide notice of the registration to other interested parties.* ~~Prior to the adoption of rules regulating the registration of drycleaning facilities and wholesale suppliers,~~ The department shall establish reasonable ~~interim~~ requirements for the registration of such facilities. The department shall *use reasonable efforts to* identify and notify drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ of the registration requirements by certified mail, return receipt requested. The department shall provide to the Department of Revenue a copy of each applicant's registration materials, within 30 working days of the receipt of the materials. This copy may be in such electronic format as the two agencies mutually designate.

2.a. *The department shall issue an invoice for annual registration fees to each registered drycleaning facility or wholesale supply facility by December 31 of each year.* Owners of drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ shall submit to the department an initial *fee of $150* and an annual renewal registration fee *of $150* for each drycleaning facility or wholesale *supply facility* ~~supplier~~ owned and in operation. The fee shall be paid within 30 days after receipt of billing by the department.

~~b.(I) For drycleaning facilities and wholesale suppliers whose annual gross receipts for the preceding calendar year were less than $350,000, the registration fee shall be $100.~~

~~(II) For drycleaning facilities and wholesale suppliers whose annual gross receipts for the preceding calendar year were $350,000 or more but less than $600,000, the registration fee shall be $250.~~

~~(III) For drycleaning facilities and wholesale suppliers whose annual gross receipts for the preceding calendar year were $600,000 or more, the registration fee shall be $500.~~

~~For purposes of this sub-subparagraph, gross receipts for drycleaning facilities shall include all charges imposed at the drycleaning facility and associated dry drop off facilities owned by the owner of the drycleaning facility, but shall not include receipts from sales for resale between drycleaning facilities or associated dry drop off facilities. Gross receipts for wholesale suppliers shall include all receipts from sales to commercial drycleaning establishments, but shall not include receipts from sales for resale between wholesale suppliers.~~

b.~~c.~~ Revenues derived from registration and renewal fees shall be deposited into the Hazardous Waste Management Trust Fund to be used as provided in s. 376.3078.

Section 3. Section 376.3078, Florida Statutes, 1994 Supplement, is amended to read:

376.3078 Drycleaning facility restoration; funds; uses; liability; recovery of expenditures.—

(1) FINDINGS.—In addition to the legislative findings set forth in s. 376.30, the Legislature finds and declares that:

(a) Significant quantities of drycleaning solvents have been discharged in the past at drycleaning facilities as part of the normal operation of these facilities.

(b) Discharges of drycleaning solvents at such drycleaning facilities have occurred and are occurring, and pose a significant threat to the quality of the groundwaters and inland surface waters of this state.

(c) Where contamination of the groundwater or surface water has occurred, remedial measures have often been delayed for long periods while determinations as to liability and the extent of liability are made, and such delays result in the continuation and intensification of the threat to the public health, safety, and welfare; in greater damage to the environment; and in significantly higher costs to contain and remove the contamination.

(d) Adequate financial resources must be readily available to provide for the expeditious supply of safe and reliable alternative sources of potable water to affected persons and to provide a means for investigation and rehabilitation of contaminated sites without delay.

(2) FUNDS; USES.—

(a) All penalties, judgments, recoveries, reimbursements, loans, and other fees and charges related to the implementation of this section and the tax revenues levied, collected, and credited pursuant to ss. 376.70 and 376.75, and registration fees collected pursuant to s. 376.303(1)(d), shall be deposited into the Hazardous Waste Management Trust Fund, to be used upon appropriation as provided in this section. Charges against the funds for drycleaning facility or wholesale supply site rehabilitation shall be made in accordance with the provisions of this section.

(b) Whenever, in its determination, incidents of contamination by drycleaning solvents related to the operation of drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ may pose a threat to the environment or the public health, safety, or welfare, the department shall obligate moneys available pursuant to this section to provide for:

1. Prompt investigation and assessment of the contaminated drycleaning facility or wholesale *supply facility* ~~supplier~~ sites.

2. Expeditious treatment, restoration, or replacement of potable water supplies as provided in s. 376.30(3)(c)1.

3. Rehabilitation of contaminated drycleaning facility or wholesale *supply facility* ~~supplier~~ sites, which shall consist of rehabilitation of affected soil, groundwater, and surface waters, using the most cost-effective alternative that is technologically feasible and reliable and that provides adequate protection of the public health, safety, and welfare and

minimizes environmental damage, in accordance with the site selection and rehabilitation criteria established by the department under subsection (4), except that nothing in this subsection shall be construed to authorize the department to obligate drycleaning facility restoration funds for payment of costs that may be associated with, but are not integral to, drycleaning facility or wholesale *supply facility* ~~supplier~~ site rehabilitation.

4. Maintenance and monitoring of contaminated drycleaning facility or wholesale *supply facility* ~~supplier~~ sites.

5. Inspection and supervision of activities described in this subsection.

6. Payment of expenses incurred by the department in its efforts to obtain from responsible parties the payment or recovery of reasonable costs resulting from the activities described in this subsection.

7. Payment of any other reasonable costs of administration, including those administrative costs incurred by the Department of Health and Rehabilitative Services in providing field and laboratory services, toxicological risk assessment, and other assistance to the department in the investigation of drinking water contamination complaints and costs associated with public information and education activities.

8. Reasonable costs of restoring property as nearly as practicable to the conditions that existed prior to activities associated with contamination assessment or remedial action.

9. The department shall not obligate funds in excess of the annual appropriation.

(c) Drycleaning facility restoration funds may not be used to:

1. Restore sites that are contaminated by solvents normally used in drycleaning operations where the contamination at such sites did not result from the operation of a drycleaning facility or wholesale *supply facility* ~~supplier~~.

2. Restore sites that are contaminated by drycleaning solvents being transported to or from a drycleaning facility or wholesale *supply facility* ~~supplier~~.

3. Fund any costs related to the restoration of any site that has been identified *to qualify for listing, or is listed, on the National Priority List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986, or that is under an order from the United States Environmental Protection Agency pursuant to s. 3008(h) of the Resource Conservation and Recovery Act as amended, or has obtained, or is required to obtain a permit for the operation of a hazardous waste treatment, storage, or disposal facility, a postclosure permit, or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984.* ~~by the United States Environmental Protection Agency to be, or which qualifies as, a Superfund site, or any site that is required to obtain a permit pursuant to the Resource Conservation and Recovery Act as amended.~~

4. Pay any costs associated with any fine, penalty, or action brought against a drycleaning facility owner or operator or wholesale *supply facility or real property owner* ~~supplier~~ under *local*, state, or federal law.

5. Pay any costs related to the restoration of any site that is operated as a uniform rental or linen supply facility, regardless of whether the site was previously operated as a drycleaning facility or wholesale supply facility.

(3) REHABILITATION LIABILITY.—In accordance with the eligibility provisions of this section, *no real property owner or* no person who owns or operates, or who otherwise could be liable as a result of the operation of, a drycleaning facility *or a wholesale supply facility*~~, and no wholesale supplier,~~ shall be subject to administrative or judicial action brought by or on behalf of any state or local government *or agency thereof* or *by or on behalf of* any person to compel rehabilitation or pay for the costs of rehabilitation of environmental contamination resulting from the discharge of drycleaning solvents. Subject to the delays that may occur as a result of the prioritization of sites under *this section* ~~paragraph (4)(a)~~ for any qualified site, costs for activities described in paragraph (2)(b) shall be absorbed at the expense of the drycleaning facility restoration funds, without recourse to reimbursement or recovery from *the real property owner or* the owner or operator of the drycleaning facility or the wholesale *supply facility* ~~supplier~~.

(a) With regard to drycleaning facilities or wholesale *supply facilities that have* ~~suppliers that are being~~ operated as drycleaning facilities or wholesale *supply facilities on or after October 1, 1994* ~~suppliers at the time the department adopts rules regulating the operation and maintenance of drycleaning facilities or wholesale suppliers~~, any *such drycleaning facility or wholesale supply facility at which there exists* contamination by drycleaning solvents ~~at such facilities~~ shall be eligible under this subsection regardless of when the drycleaning contamination was discovered, provided that the drycleaning facility or the wholesale *supply facility* ~~supplier~~:

1. Has *been* registered with the department;

2. Is determined by the department to be in compliance with the department's rules regulating *drycleaning solvents*, drycleaning facilities, or wholesale *supply facilities on or after November 19, 1980* ~~suppliers, within a reasonable period of time after such rules are adopted~~;

3. Has not been operated in a grossly negligent manner *at any time on or after November 19, 1980*;

4. *Has not been identified to qualify for listing, nor is listed, on the National Priority List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986, and as subsequently amended;* ~~Has third-party liability insurance or otherwise meets applicable financial responsibility requirements;~~

5. Is not under an order from the United States Environmental Protection Agency pursuant to s. 3008(h) of the Resource Conservation and Recovery Act as amended (42 U.S.C.A. s 6928(h)), or has not obtained and is not required to obtain a permit for the operation of a hazardous waste treatment, storage, or disposal facility, a postclosure permit, or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984;

and provided that the *real property owner or the* owner or operator of the drycleaning facility or the wholesale *supply facility* ~~supplier~~ has not willfully concealed the discharge of drycleaning solvents and~~, where appropriate,~~ has remitted all taxes due pursuant to ss. 376.70 and 376.75, *has provided documented evidence of contamination by drycleaning solvents as required by the rules developed pursuant to this section, has reported the contamination prior to December 31, 2005, and has not denied the department access to the site.*

(b) With regard to drycleaning facilities or wholesale *supply facilities* ~~suppliers~~ that cease to be operated as drycleaning facilities or wholesale *supply facilities* ~~suppliers~~ prior to *October 1, 1994* ~~the time the department adopts rules regulating the operation and maintenance of drycleaning facilities or wholesale suppliers~~, such facilities, *at which there exists contamination by drycleaning solvents,* shall be eligible under this subsection regardless of when the contamination was discovered, provided that the drycleaning facility or wholesale *supply facility* ~~supplier~~:

1. Was *not determined by the department to have been out of compliance with the department rules which were* ~~operated in a manner consistent with established drycleaning industry standards and state or federal laws or regulations~~ in effect at the time of operation *at any time on or after November 19, 1980*; ~~and~~

2. *Was* ~~Is~~ not ~~determined by the department to have been~~ operated in a grossly negligent manner *at any time on or after November 19, 1980*;

3. Has not been identified to qualify for listing, nor is listed, on the National Priority List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, and as subsequently amended; and

4. Is not under an order from the United States Environmental Protection Agency pursuant to s. 3008(h) of the Resource Conservation and Recovery Act, as amended, or has not obtained and is not required to obtain a permit for the operation of a hazardous waste treatment, storage, or disposal facility, a postclosure permit, or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984;

and provided that the *real property owner or the* owner or operator of the drycleaning facility or the wholesale *supply facility* ~~supplier~~ has not willfully concealed the discharge of drycleaning solvents, *has provided documented evidence of contamination by drycleaning solvents as required by the rules developed pursuant to this section, has reported*

the contamination prior to December 31, 2005, and has not denied the department access to the site ~~and, where appropriate, has remitted all taxes due pursuant to ss. 376.70 and 376.75~~.

(c) For purposes of this subsection, *the willful discharge of drycleaning solvents onto the soils or into the waters of the state after November 19, 1980, or* the willful concealment of a discharge of drycleaning solvents, or a willful violation of *local,* state, or federal law or *rule* ~~regulation~~ regulating the operation of drycleaning facilities or wholesale *supply facilities* ~~suppliers, or a willful violation of any drycleaning industry standard that existed prior to the adoption of state or federal laws or regulations regulating the operation of drycleaning facilities or wholesale suppliers,~~ shall be construed to be gross negligence in the operation of a drycleaning facility or wholesale *supply facility* ~~supplier~~.

(d)1. With respect to eligible drycleaning solvent contamination reported to the department by June 30, 1997, the costs of activities described in paragraph (2)(b) shall be absorbed at the expense of the drycleaning facility restoration funds, less a $1,000 deductible per incident, which shall be paid by the *applicant* ~~owner or operator of the drycleaning facility or the wholesale supplier~~.

2. For contamination reported to the department from July 1, 1997, through June 30, 2001, the costs shall be absorbed at the expense of the drycleaning facility restoration funds, less a $5,000 deductible per incident.

3. For contamination reported to the department from July 1, 2001, through December 31, 2005, the costs shall be absorbed at the expense of the drycleaning facility restoration funds, less a $10,000 deductible per incident.

4. For contamination reported after December 31, 2005, no costs will be absorbed at the expense of the drycleaning facility restoration funds.

(e) The provisions of this subsection shall not apply to any site where the department has been denied site access to implement the provisions of this section.

(f) In order to identify those drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ that have experienced contamination resulting from the discharge of drycleaning solvents and to ensure the most expedient rehabilitation of such sites, the owners and operators of drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ are encouraged to detect and report contamination from drycleaning solvents related to the operation of drycleaning facilities and wholesale *supply facilities* ~~suppliers~~. The department shall establish reasonable guidelines for the written reporting of drycleaning contamination and shall distribute forms to registrants under s. 376.303(1)(d), and to other interested parties upon request, to be used for such purpose.

(g) A report of drycleaning solvent contamination at a drycleaning facility or wholesale *supply facility* ~~supplier~~ made to the department by any person in accordance with this subsection, or any rules promulgated pursuant hereto, may not be used directly as evidence of liability for such discharge in any civil or criminal trial arising out of the discharge.

(h) The provisions of this subsection shall not apply to drycleaning facilities owned or operated by the state or Federal Government.

(i) Due to the value of Florida's potable water, it is the intent of the Legislature that the department initiate and facilitate as many cleanups as possible utilizing the resources of the state, local governments, and the private sector. The department is authorized to adopt necessary rules and enter into contracts to carry out the intent of this subsection *and to limit or prevent future contamination from the operation of drycleaning facilities and wholesale supply facilities.*

(j) It is not the intent of the Legislature that the state become the owner or operator of a drycleaning facility or wholesale *supply facility* ~~supplier~~ by engaging in state-conducted cleanup.

(k) The owner, operator, and real property owner may apply for the Drycleaning Contamination Cleanup Program by jointly submitting a completed application package to the department pursuant to the rules adopted by the department. If the application cannot be jointly submitted, then the applicant shall provide notice of the application to other interested parties. After reviewing the completed application package, the department shall notify the applicant in writing as to whether the drycleaning facility or wholesale supply facility is eligible for the program. If the department denies eligibility for a completed application package, the notice of denial shall specify the reasons for the denial and shall constitute agency action subject to the provisions of chapter 120 For the purposes of s. 120.57, the real property owner, and the owner and operator of a drycleaning facility or wholesale supply facility which is the subject of a decision by the department with regard to eligibility, shall be deemed to be parties whose substantial interests are determined by the department's decision to approve or deny eligibility.

(l) Eligibility under this subsection applies to the drycleaning facility or wholesale supply facility. A determination of eligibility or ineligibility shall not be affected by any conveyance of the ownership of the drycleaning facility, wholesale supply facility, or the real property on which such facility is located. Nothing contained in this chapter shall be construed to allow a drycleaning facility or wholesale supply facility which would not be eligible under this subsection to become eligible as a result of the conveyance of the ownership of the ineligible drycleaning facility or wholesale supply facility to another owner.

(m) If funding for the drycleaning contamination rehabilitation program is eliminated, the provisions of this subsection shall not apply.

(n)1. The department shall have the authority to cancel the eligibility of any drycleaning facility or wholesale supply facility that submits fraudulent information in the application package or that fails to continuously comply with the conditions of eligibility set forth in this subsection, or has not remitted all fees pursuant to s. 376.303(1)(d).

2. If the program eligibility of a drycleaning facility or wholesale supply facility is subject to cancellation pursuant to this section, then the department shall notify the applicant in writing of its intent to cancel program eligibility and shall state the reason(s) for cancellation. The applicant shall have 45 days to resolve the reason or reasons for cancellation to the satisfaction of the department. If, after 45 days, the applicant has not resolved the reason or reasons for cancellation to the satisfaction of the department, the order of cancellation shall become final and shall be subject to the provisions of chapter 120.

(o) A real property owner shall not be subject to administrative or judicial action brought by or on behalf of any person or local or state government, or agency thereof, for gross negligence or violations of department rules prior to January 1, 1990, which resulted from the operation of a drycleaning facility, provided that the real property owner demonstrates that:

1. The real property owner had ownership in the property at the time of the gross negligence or violation of department rules and did not cause or contribute to contamination on the property;

2. The real property owner was a distinct and separate entity from the owner and operator of the drycleaning facility, and did not have an ownership interest in or share in the profits of the drycleaning facility;

3. The real property owner did not participate in the operation or management of the drycleaning facility;

4. The real property owner complied with all discharge reporting requirements, and did not conceal any contamination; and

5. The department has not been denied access.

This defense shall not apply to any liability pursuant to a federally delegated program.

(4) SITE SELECTION AND REHABILITATION CRITERIA.—It is the intent of the Legislature that drycleaning facility restoration funds in the Hazardous Waste Management Trust Fund be used to fund the rehabilitation of sites that pose a significant threat to the public health, safety, or welfare.

(a) The department shall adopt rules to establish priorities for state-conducted rehabilitation at contaminated drycleaning facility or wholesale *supply facility* ~~supplier~~ sites based upon factors that include, but need not be limited to:

1. The degree to which human health, safety, or welfare may be affected by exposure to the contamination.

2. The size of the population or area affected by the contamination.

3. The present and future uses of the affected aquifer or surface waters, with particular consideration as to the probability that the contamination is substantially affecting, or will migrate to and substantially affect, a known public or private source of potable water.

4. The effect of the contamination on the environment.

Drycleaning facility restoration funds shall then be obligated for activities described in paragraph (2)(b) at individual sites in accordance with the criteria established in this subsection. However, nothing in this paragraph shall be construed to restrict the department from modifying the priority status of a drycleaning facility or wholesale *supply facility* ~~supplier~~ rehabilitation site where conditions warrant.

(b) ~~The department shall establish criteria by rule for the purpose of determining, on a case-by-case basis, the rehabilitation program tasks that comprise a site rehabilitation program and the level at which a rehabilitation program task and a site rehabilitation program may be deemed completed.~~ Criteria for determining completion of site rehabilitation program tasks and site rehabilitation programs shall be based upon the factors set forth in paragraph (a) and the following additional factors:

1. Individual site characteristics, including natural rehabilitation processes.

2. Applicable state water quality standards.

3. Whether deviation from state water quality standards or from established criteria is appropriate, based upon the degree to which the desired rehabilitation level is achievable and can be reasonably and cost-effectively implemented within available technologies or control strategies; except that, where a state water quality standard is applicable, such deviation may not result in the application of standards more stringent than said standard.

(c) It is recognized that restoration of groundwater resources contaminated with certain drycleaning solvents, such as perchloroethylene, may not be achievable using currently available technology. In situations where the use of available technology is not anticipated to achieve water quality standards, the department, at its discretion, may use innovative technology that has been field-tested through a federal innovative technology program and that has engineering and cost data available.

(d) Nothing in this subsection shall be construed to restrict the department from temporarily postponing completion of any site rehabilitation program for which drycleaning facility restoration funds are being expended whenever such postponement is deemed necessary in order to make funds available for rehabilitation of a drycleaning facility or wholesale *supply facility* ~~supplier~~ contamination site with a higher priority status.

(e) The department shall provide the rehabilitation of eligible drycleaning facilities and wholesale supply facilities consistent with this subsection. Nothing in this chapter shall subject the department to liability for any action that may be required of the owner, operator, or real property owner by any private party or any local, state, or federal government entity.

(5) SCORING SYSTEM.—The department shall use the following scoring system to rank and prioritize sites for rehabilitation that have been determined to be eligible for the program pursuant to subsection (3). If the application package documents that a site has one of the following characteristics, then the site shall be allocated the corresponding number of points.

(a) Any site having a condition that exhibits a fire or explosion hazard shall be of highest priority.

(b) Threat to Drinking Water Supply Wells

1. Capacity:

a. A site shall be awarded points based on the permitted capacity of the largest uncontaminated public water supply well or the capacity of the largest uncontaminated private drinking water well constructed prior to the date of contamination discovery that is located within 1 mile of the site. If multiple uncontaminated wells of the same capacity are present within 1 mile, then select the uncontaminated well closest to the site. Points shall be awarded as follows:

For uncontaminated wells (only one shall apply):

Capacity (gallons per day)	*Points*
greater than 1,000,000	*90*
100,000 to 1,000,000	*60*
less than 100,000	*30*

b. If no points were awarded from a., and contaminated wells are present, then the site shall be awarded points based on the permitted capacity of the largest contaminated public water supply well or the capacity of the largest contaminated private drinking water well constructed prior to the date of contamination discovery that is located within 1 mile of the site. If multiple contaminated wells of the same capacity are present within 1 mile, then select the contaminated well closest to the site. Points shall be awarded as follows:

For contaminated wells (only one shall apply):

Capacity (gallons per day)	*Points*
greater than 1,000,000	*25*
100,000 to 1,000,000	*15*
less than 100,000	*5*

2. A site shall be awarded points based on the proximity of the public water supply well or private well selected 1. as follows. If the well selected is an uncontaminated well, then select only one from a. below. If the well selected is a contaminated well, then select only one from b. below.

a. For uncontaminated wells:

Distance	*Points*
within 500 feet	*40*
within 1/4 mile	*30*
within 1/2 mile	*20*
within 1 mile	*10*

b. For contaminated wells:

Distance	*Points*
within 500 feet	*15*
within 1/4 mile	*10*
within 1/2 mile	*8*
within 1 mile	*5*

(c) A site shall be awarded points based on groundwater vulnerability to contamination using the department's current DRASTIC Index (only one shall apply):

DRASTIC Index	*Points*
79 and below	*3*
80 to 99	*6*
100 to 119	*9*
120 to 139	*12*
140 to 159	*15*
160 to 179	*18*
180 to 199	*21*
200 to 266	*24*

(d) Aquifer Classification (select all that apply):

1. A site located in a G-I or F-I aquifer area shall be awarded 3 points.

2. A site located in a G-II aquifer area shall be awarded 2 points.

3. A site located in an U.S. Environmental Protection Agency designated Sole Source Aquifer area shall be awarded 1 point.

(e) Conditions favoring a continual source (only one shall apply):

1. If a site has chlorinated drycleaning solvents in the soil at concentrations greater than or equal to 1 milligram per kilogram or in the groundwater at concentrations greater than or equal to 1,500 micrograms per liter, then the site shall be awarded 7 points.

2. If the site has chlorinated drycleaning solvents in the soil at concentrations less than 1 milligram per kilogram or in the groundwater at concentrations less than 1,500 micrograms per liter then the site shall be awarded 2 points.

(f) Environmental Setting (select all that apply):

1. A site located within 1/2 mile of an uncontaminated surface water body used as a permitted public water system shall be awarded 10 points.

2. A site located within 1/2 mile of an Outstanding Florida Water Body shall be awarded 2 points.

3. A site located within 1/4 mile of a surface water body shall be awarded 1 point.

4. A site located within 1/4 mile of an Area of Critical State Concern as defined in chapter 380, F.S., shall be awarded 2 points.

(6) SCORING SYSTEM APPLICATION.—

(a) If the department determines that a site is eligible for the program, pursuant to this section, then the department shall develop a score for the site in accordance with provisions of subsection (5).

(b) A priority list of eligible sites shall be developed, by the department, based on an ordering of scored sites such that the highest scored sites shall be of highest priority for rehabilitation.

(c) Scored sites shall be incorporated into the priority list on a quarterly basis with the ranking of all sites previously on the list being adjusted accordingly.

(d) Assignments for program tasks to be conducted by state contractors shall be made according to the current priority list and shall be based on the department determination of contractor logistics, geographical considerations, and other criteria the department determines are necessary to achieve cost-effective site rehabilitation.

(e) Assignments for the program tasks shall be made beginning with the highest ranked sites on the priority list at the effective date the assignment is made and proceed through lower-ranked sites.

(f) All scored sites will be added to the priority list on a quarterly basis until all the sites have been assigned.

(g) Once an assignment is made, a subsequent quarterly adjustment to the priority list shall not alter that assignment unless a more cost-effective approach can be achieved by reassignment, a compelling public health condition or an environmental condition warrants a reassignment, or the reassignment is otherwise in the public interest.

(h) Regardless of the score of a site, the department may initiate emergency action for those sites that, in the judgment of the department, are a threat to human health and safety, or where failure to prevent migration of drycleaning solvents would cause irreversible damage to the environment.

(7) REQUIREMENT FOR DRYCLEANING FACILITIES.—It is the intent of the Legislature that the following drycleaning solvent containment shall be required of the owners or operators of drycleaning facilities, as follows:

(a) Owners or operators of drycleaning facilities shall by January 1, 1997, install dikes or other containment structures around each machine or item of equipment in which drycleaning solvents are used and around any area in which solvents or waste-containing solvents are stored. Such dikes or containment structures shall be capable of containing 110 percent of the capacity of each such machine and each such storage area. To the extent practicable, each owner or operator of a drycleaning facility shall seal or otherwise render impervious those portions of all dikes' floor surfaces upon which any drycleaning solvents may leak, spill, or otherwise be released.

(b) For drycleaning facilities that commence operating subsequent to January 1, 1996, the owners or operators of such facilities shall, prior to the commencement of operations, install beneath each machine or item of equipment in which drycleaning solvents are used a rigid and impermeable containment vessel capable of containing 110 percent of the total tank capacity of each machine.

(c) Notwithstanding the provisions of subsection (3), the owner or operator of a drycleaning facility or wholesale supply facility at which there is a spill of more than one quart of drycleaning solvent outside of a containment structure, on or after July 1, 1995, shall report the spill to the state through the State Warning Point pursuant to s. 403.161(1)(d) immediately upon the discovery of such spill, and immediately initiate and complete actions to abate the source of the spill, remove product from all indoor and outdoor surface areas, remove product and dissolved product from any septic tank or catch basin in which the solvent has accumulated, and remove affected soils, if any. Costs incurred by an owner or operator for such response actions, up to a maximum of $10,000 in the aggregate for all spills at a single facility, shall be credited to the owner or operator against the future gross receipts tax set forth in s. 376.70 and, in the case of a wholesale supply facility, against the future tax on production or importation of perchloroethylene, as set forth in s. 376.75.

(d) Failure to comply with the requirements of this subsection shall constitute gross negligence with regards to determining site eligibility in subsection (3).

(8) The owner or operator of an operating drycleaning facility or wholesale supply facility shall, by 180 days after the effective date of this law, have purchased third-party liability insurance for $1 million of coverage. The owner or operator shall maintain such insurance while operating as a drycleaning facility or wholesale supply facility and provide proof of such insurance to the department upon registration renewal each year thereafter. Such requirement applies only if such insurance becomes available at a reasonable rate and covers liability for contamination that occurred both before and after the effective date of the policy. For the purposes of this subsection reasonable rate means the rate developed based on exposure to loss and underwriting and administrative costs as determined by the Department of Insurance. Failure to comply with this subsection shall subject the owner and operator to the provisions of s. 376.302.

(9) A real property owner is authorized to conduct site rehabilitation activities at any time pursuant to department rules, either through agents of the real property owner or through responsible response action contractors or subcontractors, whether or not the facility has been determined by the department to be eligible for the drycleaning solvent cleanup program. A real property owner or any other party that conducts site rehabilitation may not seek cost recovery from the department or the Hazardous Waste Management Trust Fund for any such rehabilitation activities. A real property owner that voluntarily conducts such site rehabilitation, whether commenced before or on or after the effective date of this act, shall be immune from liability to any person, state or local government, or agency thereof to compel or enjoin site rehabilitation or pay for the cost of rehabilitation of environmental contamination, or to pay any fines or penalties regarding rehabilitation, so long as the real property owner:

1. Conducts contamination assessment and site rehabilitation consistent with state and federal laws and rules;

2. Conducts such site rehabilitation in a timely manner according to a rehabilitation schedule approved by the department; and

3. Does not deny the department access to the site. Upon completion of such site rehabilitation activities in accordance with the requirement of this subsection, the department shall render a site rehabilitation completion order.

(10)~~(5)~~ DEPARTMENTAL DUTY TO SEEK RECOVERY AND REIMBURSEMENT.—

(a) Except as provided in subsection (3) and as otherwise provided by law, the department shall recover from any person causing or having caused the discharge of drycleaning solvents in relation to the operation of a drycleaning facility or wholesale *supply facility* ~~supplier~~, jointly and severally, all sums owed or expended from drycleaning facility restoration funds, pursuant to s. 376.308, except that the department may decline to pursue such recovery if it finds the amount involved to be too small or the likelihood of recovery too uncertain.

(b) Except as provided in subsection (3) and as otherwise provided by law, it is the duty of the department in administering the drycleaning facility restoration funds to diligently pursue the reimbursement to the Hazardous Waste Management Trust Fund of any sum expended from the fund for rehabilitation in accordance with the provisions of this sec-

tion, unless the department finds the amount involved to be too small or the likelihood of recovery too uncertain. For the purposes of s. 95.11, the limitation period within which to institute an action to recover such sums shall commence on the last date on which any such sums were expended, and not the date that the discharge occurred.

Section 4. Section 376.3079, Florida Statutes, 1994 Supplement, is amended to read:

376.3079 Third-party liability insurance.—

(1) It is the intent of the Legislature that if necessary the department assist owners of drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ in obtaining third-party liability insurance coverage if such facilities or suppliers are regulated by and in compliance with the department's rules relating to drycleaning facilities and wholesale *supply facilities* ~~suppliers~~. In order to assist drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ in obtaining such insurance coverage, the department may contract with an insurance company, a reinsurance company, or other insurance consultant to issue third-party liability policies. If such third-party insurance is not available, the department shall not provide such insurance from state funds.

(2)(a) Any owner or operator of a drycleaning facility or wholesale *supply facility* ~~supplier~~ may be eligible for third-party liability insurance coverage if the facility is registered with the department pursuant to s. 376.303(1)(d) and is otherwise in compliance with the department's rules relating to drycleaning facilities or wholesale *supply facilities* ~~suppliers~~.

(b) The following drycleaning facilities or wholesale *supply facilities* ~~suppliers~~ are not eligible for state-assisted third-party liability insurance:

1. Sites owned or operated by the state or Federal Government.

2. Sites where the owner or operator has denied the department site access or where the facility has been determined not to be in compliance with the department's rules relating to drycleaning facilities or wholesale *supply facilities* ~~suppliers~~.

(c) Third-party liability insurance coverage may not be provided by the state contracted insurance carrier to cover third-party claims relating to damages caused by contamination that was discovered prior to the effective date of the insured's policy.

(3) For purposes of this section *and s. 376.3078*, the term:

(a) "Third-party liability" means the insured's liability, other than for site rehabilitation costs, for bodily injury or property damage caused by an incident of contamination related to the operation of a drycleaning facility or wholesale *supply facility* ~~supplier~~.

(b) "Incident" means any sudden or gradual discharge of drycleaning solvents arising from the operation of a drycleaning facility or wholesale *supply facility* ~~supplier~~ that results in a need for site rehabilitation or results in bodily injury or property damage neither expected nor intended by the drycleaning facility owner or operator or wholesale *supply facility* ~~supplier~~.

(4)(a) The purchase of insurance services by the department is not subject to the provisions of chapter 287.

(b) The Department of Insurance shall offer assistance as requested by the department to implement the program.

(c) Any insurance company, reinsurance company, or other entity contracted with by the department shall be subject to the same rules of the Department of Insurance applicable to other insurers, reinsurers, and other entities.

(5) It is the express intent of the Legislature that the provisions of this section shall not provide the basis for any claim against the department, the Hazardous Waste Management Trust Fund, or against the Water Quality Assurance Trust Fund for bodily injury or property damages caused by an incident of contamination related to the operation of a drycleaning facility or wholesale *supply facility* ~~supplier~~.

Section 5. Paragraph (c) of subsection (1) of section 376.308, Florida Statutes, 1994 Supplement, is amended to read:

376.308 Liabilities and defenses of facilities.—

(1) In any suit instituted by the department under ss. 376.30-376.319, it is not necessary to plead or prove negligence in any form or matter. The department need only plead and prove that the prohibited discharge or other polluting condition has occurred. The following persons shall be liable to the department for any discharges or polluting condition:

(c) In the case of a discharge of petroleum, petroleum products, or drycleaning solvents, the owner of the facility, *the drycleaning facility, or the wholesale supply facility,* unless the owner can establish that he acquired title to property contaminated by the activities of a previous owner or operator or other third party, that he did not cause or contribute to the discharge, and that he did not know of the polluting condition at the time he acquired title. If the owner acquired title subsequent to July 1, 1992, or, in the case of a drycleaning facility or wholesale *supply facility* ~~supplier~~, subsequent to July 1, 1994, he must also establish by a preponderance of the evidence that he undertook, at the time of acquisition, all appropriate inquiry into the previous ownership and use of the property consistent with good commercial or customary practice in an effort to minimize liability. The court or hearing officer shall take into account any specialized knowledge or experience on the part of the defendant, the relationship of the purchase price to the value of the property if uncontaminated, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate inspection. In an action relating to a discharge of petroleum, petroleum products, or drycleaning solvents under chapter 403, the defenses and definitions set forth herein shall apply.

Section 6. Subsection (5) of section 376.313, Florida Statutes, 1994 Supplement, is amended to read:

376.313 Nonexclusiveness of remedies and individual cause of action for damages under ss. 376.30-376.319.—

(5)(a) In any civil action against the owner or operator of a drycleaning facility or a wholesale *supply facility, or the owner of the real property on which such facility is located, if such facility is not eligible under s. 376.3978(3),* ~~supplier brought after the date established by rule by which drycleaning facilities or wholesale suppliers must be in compliance with department rules,~~ for damages arising from the discharge of drycleaning solvents from a drycleaning facility or wholesale *supply facility* ~~supplier~~, the provisions of subsection (3) shall not apply if it can be proven that, at the time of the discharge the alleged damages resulted solely from a discharge from a drycleaning facility or wholesale *supply facility* ~~supplier~~ that was *in compliance with department rules regulating drycleaning facilities or wholesale supply facilities* ~~operated and maintained in a manner consistent with the operation and maintenance standards established for such facilities under the rules of the department~~.

(b) Any person bringing such an action must prove negligence in order to recover damages under this subsection. For the purposes of this subsection, noncompliance with s. 376.303 or s. 376.3078, or any of the rules promulgated pursuant thereto, or any applicable state or federal law or regulation, as the same may hereafter be amended, shall be prima facie evidence of negligence.

Section 7. Subsections (1), (2), and (4) of section 376.70, Florida Statutes, 1994 Supplement, are amended to read:

376.70 Tax on gross receipts of drycleaning facilities.—

(1) ~~Beginning October 1, 1994,~~ There is ~~hereby~~ levied a gross receipts tax on *each drycleaning facility, as defined in s. 376.301,* ~~every person~~ for the privilege of engaging in the business of laundering and drycleaning clothing and other fabrics in this state ~~and of engaging in the business of providing uniform rentals or linen supply services in this state~~. The tax shall be at a rate of 1.5 percent of all charges imposed *by the drycleaning facility* for the drycleaning or laundering of clothing or other fabrics ~~and all charges imposed for uniform rental or linen supply services~~. Beginning January 1, *1997* ~~2004~~, the tax rate shall be 2 percent *of such charges.* Gross receipts from coin-operated laundry machines and from laundry done on a wash, dry, and fold basis shall not be subject to tax.

(2) *Each drycleaning facility* ~~Any person~~ imposing a charge for the drycleaning or laundering of clothing or other fabrics ~~or a charge for uniform rental or linen supply services~~ is required to register with the Department of Revenue and become licensed for the purposes of this section. *Drycleaning facilities* ~~Persons~~ operating at more than one location are only required to have a single registration. The fee for registration is $30.

~~(4) Gross receipts arising from charges for services taxable pursuant to this section to persons who also impose charges to others for those same services are exempt from the tax imposed pursuant to this section.~~

Section 8. The registration fee and the gross receipts tax imposed under sections 376.303(1)(d) and 376.70, Florida Statutes, do not apply to uniform rental companies or linen supply companies. Any such fee or tax that was imposed on and remitted, collected, or held in escrows by a uniform rental company or linen supply company from October 1, 1994, and before the effective date of this act is not payable to the State of Florida, and, if remitted, shall be refunded by the Department of Revenue.

Section 9. Section 376.75, Florida Statutes, 1994 Supplement, is amended to read:

376.75 Tax on production or importation of perchloroethylene.—

(1) Beginning October 1, *1995* ~~1994~~, a tax *of $7.50 per gallon* is levied on the *sale of* ~~privilege of producing in, importing into, or causing to be imported into the state~~ perchloroethylene (tetrachloroethylene) *in this state to a drycleaning facility located in this state or the import of perchlorethylene into this state by a drycleaning facility.*~~A tax of $5 per gallon is levied on each gallon of perchloroethylene when first imported into or produced in the state. The tax is imposed when transfer of title or possession, or both, of the product occurs in this state or when the product commingles with the general mass of this state.~~

(2) Any person producing in, importing into, or causing to be imported into, *or selling in,* this state perchloroethylene ~~for sale, use, or otherwise~~ must register with the Department of Revenue and become licensed for the purposes of remitting the tax pursuant to, *or providing information required by,* this section. Such person must register as *a seller of perchloroethylene, a user of perchloroethylene in drycleaning facilities, or a user of perchloroethylene for purposes other than drycleaning* ~~either a producer or importer of perchloroethylene~~. Persons operating at more than one location are only required to have a single registration. The fee for registration is $30. Failure to timely register is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) The tax imposed by this section is due on the first day of the month succeeding the month of *the sale* ~~production, importation, or removal from a storage facility~~ and must be paid on or before the 20th day of each month. Tax shall be reported on forms and in the manner prescribed by the Department of Revenue by rule.

(4) Any person subject to taxation under this section or any person who sells tax-paid perchloroethylene, other than a retail dealer, must separately state the amount of such tax paid on any charge ticket, sales slip, invoice, or other tangible evidence of the sale or must certify on the sales document that the tax required pursuant to this section has been paid.

(5) All perchloroethylene imported, produced, or sold in this state is presumed to be subject to the tax imposed by this section. Any person~~, except the final retail consumer,~~ who has purchased perchloroethylene for ~~sale,~~ use~~, consumption, or distribution~~ in *such person's drycleaning facility in* this state must document that the tax imposed by this section has been paid or must pay such tax directly to the Department of Revenue in accordance with subsection (3).

(6) For purposes of this section, to demonstrate that perchloroethylene is not sold or transferred to a drycleaning facility for eventual use in a drycleaning facility in this state, a person may rely on a certificate signed under penalty of perjury by a transferee of the perchloroethylene stating that the transferee does not own or operate a drycleaning facility or the transferee will not use the perchloroethylene in a drycleaning facility in this state. Any producer, importer, seller, or other transferor of perchloroethylene who is required to register in accordance with subsection (2) but who does not make any taxable sales or taxable transfers during a year shall file with the Department of Revenue a form containing the quantity of perchloroethylene sold or transferred, a statement indicating that all sales were exempt from tax, and such other information as the Department of Revenue may prescribe.

(7)~~(6)~~ The Department of Revenue may authorize a quarterly return and payment when the tax remitted by the licensee for the preceding quarter did not exceed $100; may authorize a semiannual return and payment when the tax remitted by the licensee for the preceding 6 months did not exceed $200; and may authorize an annual return and payment when the tax remitted by the licensee for the preceding 12 months did not exceed $400.

(8)~~(7)~~ The tax imposed by this section shall be reported to the Department of Revenue. The payment shall be accompanied by such forms as the Department of Revenue prescribes. The proceeds of the tax, after deducting the administrative costs incurred by the Department of Revenue in administering, auditing, collecting, distributing, and enforcing the tax, shall be transferred by the Department of Revenue into the Hazardous Waste Management Trust Fund and shall be used as provided in s. 376.3078. For the purposes of this section, the proceeds of the tax include all funds collected and received by the Department of Revenue, including interest and penalties on delinquent taxes.

(9)~~(8)~~(a) The Department of Revenue shall administer, collect, and enforce the tax authorized under this section pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of part I of chapter 212 regarding the authority to audit and make assessments, the keeping of books and records, and interest and penalties on delinquent taxes shall apply. The tax shall not be included in the computation of estimated taxes pursuant to s. 212.11, nor shall the dealer's credit for collecting taxes or fees in s. 212.12 apply to the tax. The provisions of s. 212.07(4) shall not apply to the tax imposed by this section.

(b) The Department of Revenue, under the applicable rules of the Public Employees Relations Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The Department of Revenue is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section.

(c) The Department of Revenue is authorized to establish audit procedures and to assess delinquent taxes.

(10)~~(9)~~ The Legislature declares that the failure to promptly implement the provisions of this section would present an immediate threat to the welfare of the state. Therefore, the executive director of the Department of Revenue is authorized to adopt emergency rules pursuant to s. 120.54(9) to implement this section. Notwithstanding any other provision of law, such emergency rules shall remain effective for 180 days from the date of adoption. Other rules of the Department of Revenue related to and in furtherance of the orderly implementation of this section shall not be subject to a s. 120.54(4) rule challenge or a s. 120.54(17) drawout proceeding, but, once adopted, shall be subject to a s. 120.56 invalidity challenge. Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(13).

(11)~~(10)~~ *If perchloroethylene on which tax has been paid is exported from this state or acquired for purposes other than use in a drycleaning facility in this state or for sale, resale, or other transfer for such use, the person that paid the tax to the Department of Revenue may apply for a refund or take a credit of such tax paid. The person applying for the refund or credit must refund such tax to the person who incurred the burden of the tax before the claim to the state for refund or credit will be approved.*

~~(10) Perchloroethylene exported from the first storage facility at which it is held in this state by the producer or importer is exempt from the tax pursuant to this section. Anyone exporting perchloroethylene on which tax has been paid may apply for a refund or credit. The Department of Revenue may require such information as it deems necessary in order to approve the refund or credit.~~

Section 10. This act shall take effect October 1, 1995.

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 pollution caused by drycleaning solvents; amending s. 376.301, F.S.; revising and adding definitions; amending s. 376.303, F.S.; revising the powers and duties of the Department of Environmental Protection pertaining to the registration program for drycleaning facilities and wholesale supply facilities; amending s. 376.3078, F.S.; revising the requirements pertaining to the drycleaning facility restoration fund; providing procedures for applying for the Drycleaning Contamination Cleanup Program; establishing and applying a scoring system to prioritize sites for rehabilitation; amending s. 376.3079, F.S.; revising the third-party liability insurance provision; amending s. 376.308, F.S.; revising the liability of facilities; amending s. 376.313, F.S.; revising the provisions for civil actions against facilities; amending s.

376.70, F.S.; providing that uniform-rental and linen-supply companies are not subject to the tax imposed on gross receipts of drycleaning facilities; requiring the Department of Revenue to refund taxes and fees that have been remitted; amending s. 376.75, F.S.; increasing the tax on production of importation of perchloroethylene; providing an effective date.

On motion by Senator McKay, further consideration of **CS for SB 2140** with pending **Amendment 6** was deferred.

Consideration of **SB 2568** and **CS for SB's 2540 and 2682** was deferred.

On motions by Senator Jennings, the rules were waived and by two-thirds vote **HB 2651** was withdrawn from the Committee on Rules and Calendar, placed on the Special Order Calendar and taken up instanter.

HB 2651—A bill to be entitled An act relating to the official Florida Statutes; amending ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes; adopting the Florida Statutes 1995 and designating the portions thereof that are to constitute the official law of the state, providing that the Florida Statutes 1995 shall be effective immediately upon publication; providing that general laws enacted during the 1993 regular and special legislative sessions up to and including the special session of May 24 to May 28, 1993, and prior thereto and not included in the Florida Statutes 1995 are repealed; providing that general laws enacted during the November 1993 special session, the 1994 regular session, and the 1995 regular session are not repealed by this adoption act.

—was read the second time by title. On motion by Senator Jennings, by two-thirds vote **HB 2651** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—None

CS for SB's 2540 and 2682—A bill to be entitled An act relating to courts; validating certain assessments ordered by a judge pursuant to local ordinance or order against a defendant in a criminal proceeding or a noncriminal traffic proceeding, to be deposited into a local court improvement fund or account; providing for expiration of the act; providing an effective date.

—was read the second time by title.

Senator Dyer moved the following amendment which was adopted:

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

Section 1. Subsection (1) of section 57.081, Florida Statutes, 1994 Supplement, is amended to read:

57.081 Costs; right to proceed where prepayment of costs waived.—

(1) Any indigent person who is a party or intervenor in any judicial or administrative agency proceeding or who initiates such proceeding shall receive the services of the courts, sheriffs, and clerks, with respect to such proceedings, without charge. Such services are limited to filing fees, service of process, certified copies of orders or final judgments, a single photocopy of any court pleading, record, or instrument filed with the clerk, examining fees, mediation services and fees, court-appointed counsel fees, subpoena fees and services, service charges for collecting and disbursing funds, and any other cost or service arising out of pending litigation. In any appeal from an administrative agency decision, for which the clerk is responsible for preparing the transcript, the clerk shall waive the cost of preparing the transcripts and the cost for copies of any exhibits in the record. No prepayment of costs to any judge, clerk, or sheriff is required in any action when the party has obtained from the clerk in each proceeding a certification of indigency, based on an affidavit of the applicant claiming that the applicant is indigent and unable to pay the charges otherwise payable by law to any of such officers, *claiming that the applicant has not paid or promised to pay more than $300 to another for legal services or nonlegal assistance as permitted by law in connection with the initiation or prosecution of the proceeding;* and providing the details of the applicant's financial condition. However, when the person is represented by an attorney, the person need not file an affidavit in order to be exempt from payment of charges under this subsection. A represented person is exempt from charges under this subsection, if the attorney of such person files a written certificate, signed by the attorney, certifying that the attorney has made an investigation to ascertain the financial condition of the client and has found the client to be indigent; that the attorney has investigated the nature of the applicant's position and in the attorney's opinion it is meritorious as a matter of law; and that the attorney has not been paid or promised payment of *more than $300 as* ~~any~~ remuneration for services ~~and intends to act~~ as attorney for applicant ~~without compensation~~. On the failure or refusal of the clerk to issue a certificate of indigency, the applicant is entitled to a review of the application for the certificate by the court having jurisdiction of the cause of action.

Section 2. Section 939.18, Florida Statutes, is created to read:

939.18 Assessment of additional court costs for court facilities or county crime prevention programs.—

(1)(a) When a person pleads guilty or nolo contendere to, or is found guilty of, any felony, misdemeanor, or criminal traffic offense under the laws of this state, the court may assess an additional court cost not to exceed $150. Such additional assessment shall be deposited in the general revenue fund of the county in which the offense occurred:

1. To be used for providing and maintaining court facilities and court expenses required by law; or

2. To be used for crime prevention programs in the county, including programs established and operated under part IV of chapter 163.

(b) The court may order a person to pay the additional court cost if it finds that the person has the ability to pay the additional assessment and will not be prevented thereby from making restitution or other compensation to victims that is authorized by law or paying child support.

(2) The clerk of court shall annually prepare a financial report detailing the amount of court costs assessed and received, and expenditures and earnings from the investment of such funds. This report must be submitted to the board of county commissioners and the chief judge of the judicial circuit in which the county is situated.

Section 3. Any discretionary cost item assessment judicially imposed against a person pursuant to a municipal ordinance, a county ordinance, or an administrative order of a chief judge of a circuit court for:

(1) Rescheduling a hearing or proceeding concerning a noncriminal traffic violation, a criminal traffic violation, an ordinance violation, or a misdemeanor case;

(2) The deferment of payment of any fine, fee, or court cost; or

(3) Violation of a law of this state, a municipal ordinance, or county ordinance, including a case in which a person pleads guilty, or nolo contendere to, or is found guilty of such violation,

at any time before, on, or after the effective date of this act and deposited into a court improvement fund or other account, and which assessment was established before January 1, 1995, by county ordinance or an administrative order of a chief judge of a circuit court is ratified and validated in all respects as if an act authorizing such assessment and such fund or account had been in effect at the time of the assessment.

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to additional fines for county court facilities or crime prevention programs; amending s. 57.081, F.S.; requiring an indigent seeking a waiver of prepayment of costs to any judge, clerk, or sheriff to include in an affidavit a statement that the applicant has not paid more than a specified amount to another in connection with the legal proceeding; providing an alternative procedure; creating s. 939.18, F.S.; providing for an additional assessment on persons pleading guilty or nolo contendere to, or found guilty of, a crime to be used to maintain court facilities and court expenses or county crime prevention programs; requiring clerks of court to submit specified financial reports; providing for ratification and validation of certain judicially imposed discretionary costs; providing an effective date.

On motion by Senator Grant, by two-thirds vote **CS for SB's 2540 and 2682** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35 Nays—None

The Senate resumed consideration of—

CS for SB 2140—A bill to be entitled An act relating to pollution caused by drycleaning solvents; amending s. 376.301, F.S.; revising and adding definitions; amending s. 376.303, F.S.; revising the powers and duties of the Department of Environmental Protection pertaining to the registration program for drycleaning facilities and wholesale supply facilities; amending s. 376.3078, F.S.; revising the requirements pertaining to the drycleaning facility restoration fund; providing immunity under certain circumstances; amending s. 376.3079, F.S.; revising the third-party liability insurance provision; amending s. 376.308, F.S.; revising the liability of facilities; amending s. 376.313, F.S.; revising the provisions for civil actions against facilities; amending s. 376.70, F.S.; providing that uniform-rental and linen-supply companies are not subject to the tax imposed on gross receipts of drycleaning facilities; requiring the Department of Revenue to refund taxes and fees that have been remitted; repealing s. 376.70(4), F.S., relating to an exemption from gross receipts tax on drycleaning facilities; providing an effective date.

—with pending **Amendment 6** by Senator McKay.

Senator McKay moved the following amendments to **Amendment 6** which were adopted:

Amendment 6A—On page 32, line 4, strike *"1997"* and insert: *1996*

Amendment 6B—On page 3, line 23, strike *"$150"* and insert: *$100*

Amendment 6C—On page 32, line 16, insert:

(4) Any dry cleaning facility which includes in the total retail charge to a consumer of dry cleaning services any portion of the tax imposed pursuant to this section shall disclose on the receipt for the amount charged for such services the amount of such tax and a statement that the imposition of the tax was requested by the Florida Dry Cleaners Coalition.

Senator Brown-Waite offered the following amendment to **Amendment 6** which was moved by Senator McKay and adopted:

Amendment 6D—On page 33, strike line 3 and insert:

(1) Beginning October 1, 1994, a tax *of $5 per*

Senator McKay moved the following amendment to **Amendment 6** which was adopted:

Amendment 6E—On page 37, line 10, insert:

(12) Any dry cleaning facility which includes in the total retail charge to a consumer of dry cleaning services any portion of the tax imposed pursuant to this section shall disclose on the receipt for the amount charged for such services the amount of such tax and a statement that the imposition of the tax was requested by the Florida Dry Cleaners Coalition.

Amendment 6 as amended was adopted.

On motion by Senator McKay, by two-thirds vote **CS for SB 2140** 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—1

SB 66—A bill to be entitled An act relating to state property; directing the Board of Trustees of the Internal Improvement Trust Fund to reconvey to Hernando County a certain tract of real property in that county for a specified sum; providing an effective date.

—was read the second time by title.

One amendment was adopted to **SB 66** to conform the bill to **HB 437**.

Pending further consideration of **SB 66** as amended, on motion by Senator Brown-Waite, by two-thirds vote **HB 437** was withdrawn from the Committees on Transportation; and Ways and Means.

On motion by Senator Brown-Waite—

HB 437—A bill to be entitled An act relating to state property; directing the Board of Trustees of the Internal Improvement Trust Fund to reconvey to Hernando County a certain tract of real property in that county for a specified sum; providing a legal description of said property; providing an effective date.

—a companion measure, was substituted for **SB 66** and read the second time by title. On motion by Senator Brown-Waite, by two-thirds vote **HB 437** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Kirkpatrick, by two-thirds vote **HB 2433** was withdrawn from the Committees on Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Kirkpatrick—

HB 2433—A bill to be entitled An act relating to interior design; amending s. 481.201, F.S.; revising purpose; amending s. 481.203, F.S.; revising the definition of "interior design" and providing definitions for "nonstructural element," "reflected ceiling plan," "space planning," "common area," "diversified interior design experience," and "interior decorator services"; amending s. 481.205, F.S.; revising qualifications of certain members of the Board of Architecture and Interior Design; amending s. 481.209, F.S.; revising qualifications required to take the examination for licensure as a registered interior designer; revising requirements with respect to accreditation of programs, schools, and colleges and board approval of unaccredited programs, schools, and colleges; reenacting s. 481.213(2) and (3)(a), F.S., relating to licensure, to incorporate the amendment to s. 481.209, F.S., in references thereto; amending s. 481.213, F.S.; providing that licensure as an architect includes all rights and privileges of licensure as an interior designer; amending s. 481.219, F.S.; providing that certification to offer architectural services includes all rights and privileges of certification to offer interior design services; amending s. 481.229, F.S., relating to exemptions; eliminating reference to qualifying as an interior designer from an exemption relating to making plans and specifications for, or supervising the erection, enlargement, or alteration of certain buildings; providing procedure for a licensed architect to obtain licensure as an interior designer, and for a corporation, partnership, or person operating under a fictitious name which holds a certificate of authorization to provide architectural services to obtain a certificate of authorization to provide interior design services; providing for renewal of such licensure or certification; revising an exemption relating to performing interior design services or interior decorator services for residential applications or retail establishments; amending s. 481.231, F.S.; providing that a licensed architect shall be deemed licensed as an interior designer for purposes of offering or rendering interior design services to a county, municipality, or other local government or political subdivision; amending s. 481.24, F.S.; revising provisions relating to persons licensed as interior designers under earlier requirements; providing an appropriation; providing an effective date.

—a companion measure, was substituted for **CS for SB 36** and read the second time by title.

Senator Kirkpatrick moved the following amendments which were adopted:

Amendment 1—On page 3, strike all of lines 28-30 and insert: specifically *excludes* ~~excluding~~ the design of or the responsibility for architectural and engineering *work* ~~interior construction relating to the building systems~~, *except for specification of fixtures and their*

Amendment 2—On page 13, line 27, through page 14, line 2, strike all of said lines and renumber subsequent sections.

Amendment 3—In title, on page 2, line 24, strike "providing an appropriation;"

On motion by Senator Kirkpatrick, by two-thirds vote **HB 2433** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

RECESS

On motion by Senator Jennings, the Senate recessed at 5:52 p.m. to reconvene at 6:10 p.m.

CALL TO ORDER

The Senate was called to order by Senator Silver at 6:17 p.m. A quorum present—36:

Bankhead	Diaz-Balart	Jenne	Myers
Beard	Dyer	Jennings	Ostalkiewicz
Bronson	Forman	Johnson	Rossin
Brown-Waite	Grant	Jones	Silver
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Harris	Latvala	Weinstein
Crist	Holzendorf	McKay	Wexler
Dantzler	Horne	Meadows	Williams

SPECIAL ORDER, continued

On motion by Senator Turner, by two-thirds vote **HB 475** was withdrawn from the Committee on Criminal Justice.

On motion by Senator Turner—

HB 475—A bill to be entitled An act relating to the Parole Commission; amending ss. 947.04 and 947.22, F.S.; authorizing the chairman of the commission to appoint law enforcement officers and limiting their authority to matters over which the commission has jurisdiction; providing for a bond; providing an effective date.

—a companion measure, was substituted for **SB 1496** and read the second time by title.

On motion by Senator Turner, further consideration of **HB 475** was deferred.

On motion by Senator Johnson, by two-thirds vote **CS for HB 1373** was withdrawn from the Committees on Education; Health Care; and Ways and Means.

On motion by Senator Johnson, the rules were waived and—

CS for HB 1373—A bill to be entitled An act relating to certifying Medicaid funding in schools; establishing legislative intent; creating s. 409.9071, F.S., relating to Medicaid provider agreements for school districts; setting out criteria for certifying state match; providing requirements for school districts; amending s. 409 908, F.S., relating to reimbursement of Medicaid providers; authorizing the Agency for Health Care Administration to reimburse school districts; creating s. 236.0812, F.S., relating to Medicaid certified school funding maximization; providing Department of Education duties; providing for deposit and use of funds; requiring agency and department evaluation; requiring development of a plan; providing appropriations; providing an effective date.

—a companion measure, was substituted for **SB 68** and read the second time by title. On motion by Senator Johnson, by two-thirds vote **CS for HB 1373** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

SB 222—A bill to be entitled An act relating to services provided under Medicaid; amending s. 409.906, F.S.; allowing the Agency for Health Care Administration to pay for certain outpatient dialysis services; amending s. 409.908, F.S.; prescribing the amount of the reimbursement allowed to the provider of certain outpatient dialysis services; replacing the term "department" with the term "agency" to conform to changes made by s. 4 of ch. 94-299, Laws of Florida; providing an effective date.

—was read the second time by title.

The Committee on Health Care recommended the following amendment which was moved by Senator Forman and adopted:

Amendment 1—On page 4, strike lines 13 and 14 and insert: *the amount billed by the provider, the provider's usual and customary charge, or the maximum allowable fee established by the agency, whichever amount is less.*

Senator Forman moved the following amendment which was adopted:

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

Section 1. Present subsections (9) through (20) of section 409.906, Florida Statutes, 1994 Supplement, are renumbered as subsections (10) through (21), respectively, and a new subsection (9) is added to that section to read:

409.906 Optional Medicaid services.—The agency may make payments for the following services, which are optional to the state under Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined by the Department of Health and Rehabilitative Services to be eligible on the dates on which the services were provided. Any service that is provided under this section may be provided only when medically necessary, must be provided in accordance with state and federal law, and is subject to any limitation established by the general appropriations act or chapter 216.

(9) DIALYSIS-FACILITY SERVICES.—Subject to specific appropriations being provided for this purpose, the agency may pay a dialysis facility that is approved as a dialysis facility in accordance with Title XVIII of the Social Security Act for dialysis services that are provided to a Medicaid recipient under the direction of a physician licensed to practice medicine or osteopathic medicine in this state, including dialysis services provided in the recipient's home by a hospital-based or free-standing dialysis facility.

Section 2. Paragraph (a) of subsection (1) and paragraph (a) of subsection (2) of section 409.908, Florida Statutes, 1994 Supplement, are amended, and subsection (20) is added to that section, to read:

409.908 Reimbursement of Medicaid providers.—The agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations established by the general appropriations act or chapter 216.

(1) Reimbursement to hospitals licensed under part I of chapter 395 must be made prospectively or on the basis of negotiation.

(a) Reimbursement for inpatient care is limited to 45 days per state fiscal year per recipient, except for children under age 21, in which case the only limitation is medical necessity or the payment amount. Reimbursement for hospital outpatient care is limited to $1,000 per state fiscal year per recipient, *except for:*

1. Such care provided to ~~unless an exception has been made by the agency, and with the exception of~~ a Medicaid recipient under age 21, in which case the only limitation is medical necessity;

2. Renal-dialysis services; and

3. Other exceptions made by the agency.

(2)(a) Reimbursement to nursing homes licensed under part II of chapter 400 and intermediate care facilities for the mentally retarded licensed under chapter 393 must be made prospectively. Reimbursement to hospitals licensed under part I of chapter 395 for the provision of swing-bed nursing home services must be made on the basis of the average statewide nursing home payment. Reimbursement to a hospital licensed under part I of chapter 395 for the provision of skilled nursing services must be made on the basis of the average nursing home payment for those services in the county in which the hospital is located. When a hospital is located in a county that does not have any community nursing homes, reimbursement must be determined by averaging the nursing home payments, in counties that surround the county in which the hospital is located. Reimbursement to hospitals, including Medicaid payment of Medicare copayments, for skilled nursing services shall be limited to

30 days, unless a prior authorization has been obtained from the *agency* ~~department~~. Medicaid reimbursement may be extended by the *agency* ~~department~~ beyond 30 days, and approval must be based upon verification by the patient's physician that the patient requires short-term rehabilitative and recuperative services only, in which case an extension of no more than 15 days may be approved. Reimbursement to a hospital licensed under part I of chapter 395 for the temporary provision of skilled nursing services to nursing home residents who have been displaced as the result of a natural disaster or other emergency may not exceed the average county nursing home payment for those services in the county in which the hospital is located and is limited to the period of time which the agency considers necessary for continued placement of the nursing home residents in the hospital.

(20) A renal-dialysis facility that provides dialysis services under s. 409.906(9) must be reimbursed the lesser of the amount billed by the provider, the provider's usual and customary charge, or the maximum allowable fee established by the agency, whichever amount is less.

Section 3. This act shall take effect July 1, 1995.

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 services provided under Medicaid; amending s. 409.906, F.S.; allowing the Agency for Health Care Administration to pay for certain outpatient dialysis services; amending s. 409.908, F.S.; prescribing the amount of the reimbursement allowed to the provider of certain outpatient dialysis services; replacing the term "department" with the term "agency" to conform to changes made by s. 4 of ch. 94-299, Laws of Florida; providing an effective date.

On motion by Senator Forman, by two-thirds vote **SB 222** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

Consideration of **SB 684** was deferred.

On motion by Senator Beard, by two-thirds vote—

CS for CS for HB 725—A bill to be entitled An act relating to highway safety and motor vehicles; amending s. 327.02, F.S.; redefining the term "houseboat"; amending s. 265.284, F.S.; providing for distribution of funds to the Florida Fine Arts Trust Fund; amending s. 316.075, F.S.; authorizing drivers to make a u-turn under certain circumstances; amending s. 316.193, F.S.; revising the provision dealing with the impoundment of rental vehicles; amending s. 316.2074, F.S.; providing for legal uses of certain all-terrain vehicles; amending s. 316.646, F.S., relating to the display of proof of required security to provide that the court may suspend the registration and driver license of a person who fails to furnish required proof of security; amending ss. 319.21 and 319.22, F.S.; revising provisions with respect to title transfers to exempt certain vehicles owned by a surviving spouse; amending s. 319.28, F.S.; revising the provision dealing with transfer of ownership by operation of law to provide for a surviving spouse; amending s. 320.01, F.S.; revising the definition of the terms "apportionable vehicle" and "commercial motor vehicle" to include changes in weight descriptions; defining the term "electric vehicle"; specifying the license tax for such vehicles; amending s. 212.08, F.S.; exempting sales of such vehicles from sales and use taxes for a specified period; prohibiting insurers from imposing surcharges on insurance premiums for such vehicles unless the Department of Insurance finds the surcharges justified; amending s. 320.02, F.S.; providing for additional information on the application form for motor vehicle registration; amending s. 320.05, F.S.; authorizing a discretionary fee; amending s. 320.08096, F.S.; authorizing the Division of Cultural Affairs to administer a section dealing with the Florida arts license plates; amending s. 320.08975, F.S.; changing the Save the Children license plate to the Invest in Children license plate; amending s. 320.27, F.S.; revising language with respect to motor vehicle dealers to provide requirements with respect to required insurance; amending s. 320.77, F.S.; providing requirements with respect to licenses for mobile home dealers; creating s. 320.771, F.S.; providing requirements with respect to licenses for recreational vehicle dealers; amending s. 320.822, F.S.; revising definitions: defining the terms "recreational vehicle dealer" and "recreational vehicle manufacturer"; amending ss. 319.001, 320.131, 320.27, 320.28, 320.865, 325.202, 325.203, and 325.213, F.S.; conforming references; amending s. 321.25, F.S.; authorizing the department to charge a tuition fee for certain persons who attend training at the Florida Highway Patrol Academy; providing for use of fees; amending s. 322.01, F.S.; redefining the terms "commercial motor vehicle" and "passenger vehicle"; amending s. 322.04, F.S.; eliminating reference to a class D driver license for employment as a chauffeur; amending ss. 322.051, 322.14, and 322.142, F.S.; including reference to digital images with respect to identification cards and licenses; amending s. 322.141, F.S.; deleting requirements concerning photographic backdrops with respect to the color of licenses; amending s. 322.12, F.S.; eliminating the authorization of the department to waive the driving portion of an applicant's examination for a license; amending s. 322.17, F.S.; providing for an address sticker and fee for certain licenses; amending s. 322.18, F.S.; changing alternating license expirations to 2 consecutive license expirations prior to reexamination; authorizing a discretionary fee; amending s. 322.19, F.S.; conforming to the act; amending s. 322.25, F.S.; providing that nolo contendere pleas to charges of driving while intoxicated, driving under the influence, driving with an unlawful blood-alcohol level, or any other alcohol-related or drug-related traffic offense shall be equivalent to a conviction; amending s. 322.271, F.S.; deleting the requirement of a reexamination of certain licensees and revising the conditions under which a person whose driving privilege has been permanently revoked for specified offenses may apply for reinstatement; amending s. 322.291, F.S.; deleting reference to a required complete driver's license examination; amending s. 322.292, F.S.; revising language with respect to DUI programs to eliminate provisions concerning the disposition of certain funds or assets upon decertification of the program; amending s. 322.54, F.S.; revising certain weight classifications; amending s. 325.203, F.S.; increasing timeframes with respect to motor vehicles subject to annual inspection; exempting electric vehicles from annual inspection requirements; amending s. 327.03, F.S.; designating the Department of Highway Safety and Motor Vehicles as the department responsible for titling and registering vessels; amending s. 327.04, F.S.; conforming a reference; amending s. 327.10, F.S.; extending the grace period for vessel numbering and registration to 30 days; requiring proof of date of purchase; amending s. 327.11, F.S.; conforming references; deleting certain fees; amending s. 327.12, F.S.; conforming a reference; amending s. 327.15, F.S.; providing for the consistent use of the term "vessel"; exempting a non-motor-powered vessel from having to display a number; amending s. 327.19, F.S.; extending to 30 days the time the department must be notified of transfer of title; extending to 30 days the time the department or the tax collector must be notified of a change in address; amending s. 327.25, F.S.; conforming references; providing for a transfer of registration and a fee; providing for a replacement decal and a fee; providing for a change of classification and a fee; revising language with respect to service fees; providing for a duplication registration certificate and a fee; providing vessel registration dates; providing fractional registration fees; providing penalties for the operation of a vessel after the expiration of the registration period; deleting an optional registration date; requiring commercial fishing vessels to pay a registration fee; directing the Department of Highway Safety and Motor Vehicles to provide vessel registration forms; amending s. 327.28, F.S.; providing that the Department of Highway Safety and Motor Vehicles receives administration costs from vessel registration fees; eliminating the use of funds for certain purposes; amending s. 327.29, F.S.; conforming references; amending s. 328.01, F.S.; deleting the requirement to provide certified copies of certain documents; conforming references; amending s. 328.03, F.S.; conforming references; extending to 30 days the time allowed to file a title transfer; directing the department to take certain actions to prohibit the alteration, counterfeiting, duplication, or modification of certificates of title; amending s. 328.11, F.S.; conforming references; amending s. 328.15, F.S.; deleting the requirement that the department record the amount of a lien on a vessel; conforming references; amending ss. 328.17, 328.18, 328.20, F.S.; conforming references; amending ss. 316.1951, F.S.; authorizing license inspectors and supervisors of the Department of Highway Safety and Motor Vehicles to enforce certain parking violations; amending s. 320.27, F.S.; providing that only licensed motor vehicle dealers may advertise for sale any motor vehicle belonging to another party; repealing s. 322.18(4)(a) and (b), F.S.; deleting unnecessary language relating to license renewal; repealing s. 322.55, F.S., relating to the waiver of the driving portion of the driving skills examination; providing effective dates.

—a companion measure, was substituted for **CS for SB 2232** and by two-thirds vote read the second time by title. On motion by Senator Beard, by two-thirds vote **CS for CS for HB 725** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

SB 684—A bill to be entitled An act relating to the Florida Life and Health Insurance Guaranty Association; creating s. 631.720, F.S.; authorizing member insurers to offset assessments against premium or income tax liabilities; amending s. 631.718, F.S.; conforming a cross-reference; providing an effective date.

—was read the second time by title.

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Holzendorf and failed:

Amendment 1—On page 2, line 21, strike "*s. 613.720*" and insert: *s. 631 720*

Senator Holzendorf moved the following amendment which was adopted:

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

Section 1. Section 631.720, Florida Statutes, is created to read:

631.720 Premium or income tax credits for assessments paid.—

(1) A member insurer may offset against its premium tax liabilities imposed under s. 624.509 or corporate income tax liabilities imposed under s. 220.11 to this state any assessment described in s. 631.718(8) as follows:

(a) For each assessment levied before January 1, 1996, 0.1 percent of the amount of such assessment, less any refunds received pursuant to s. 631.718(6), for each year following the year in which such assessment was paid until such time as the total of all offsets claimed for a given year's assessment, whether pursuant to this section or pursuant to prior law, equals the amount of the assessment originally paid in that year.

(b) For each assessment levied and paid after December 31, 1995, 5 percent of the amount of the assessment, less any refunds received pursuant to s. 631.718(6), for each of the 20 calendar years following the year in which the assessment was paid.

(c) An insurer may not offset both its premium tax and corporate income tax liabilities for the same assessment amount. An insurer may only offset its tax liability for one tax to the extent that the offset has not already been used to offset its tax liability for the other tax.

(d) The first tax return on which a member insurer may claim a credit provided in this section is the tax return filed in 1997, covering tax year 1996.

(2) If a member insurer ceases doing business in this state and surrenders to the department its certificate of authority to transact insurance in this state, all uncredited assessments may be credited as provided in this section against its premium tax liabilities imposed under s. 624.509 or its corporate income tax liabilities imposed under s. 220.11 for the year it ceases doing business.

(3) Any sums acquired by refund pursuant to s. 631.718(6) from the association which have been written off by contributing insurers and offset against premium or corporate income taxes as provided in paragraph (1)(a) and which are not needed for purposes of this part shall be paid by the insurer to the Ddepartment of Revenue for deposit with the Treasurer to the credit of the General Revenue Fund.

Section 2. Subsection (8) of section 631.718, Florida Statutes, is amended to read:

631.718 Assessments.—

(8) The association shall issue to each insurer paying an assessment under this part, other than a Class A assessment, a certificate of contribution, in a form prescribed by the department, for the amount of the assessment so paid. All outstanding certificates *are* ~~shall be~~ of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the department *approves* ~~may approve~~. However, any amount offset pursuant to *s. 613.720 may* ~~s. 631.719 shall~~ not be shown as an asset of the insurer on any of its financial statements.

Section 3. This act shall take effect October 1, 1995.

And the title is amended as follows:

Strike everything before the enacting clause and insert: A bill to be entitled An act relating to the Florida Life and Health Insurance Guaranty Association; creating s. 631.720, F.S.; authorizing member insurers to offset assessments against premium or income tax liabilities; amending s. 631.718, F.S.; conforming a cross-reference; providing an effective date.

On motion by Senator Holzendorf, by two-thirds vote **SB 684** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34 Nays—None

Consideration of **SB 272** and **SB 2168** was deferred.

On motion by Senator Dantzler, by two-thirds vote **HB 647** was withdrawn from the Committees on Natural Resources; and Ways and Means.

On motion by Senator Dantzler, the rules were waived and—

HB 647—A bill to be entitled An act relating to environmental preservation; amending s. 259.101, F.S.; providing a legislative finding; providing certain distribution of funds from the Preservation 2000 Trust Fund for purchase of lands for South Florida water supply preserves; providing for the distribution of a certain portion of the Preservation 2000 Trust Fund in the General Appropriations Act; providing funding for Florida Recreation Development Assistance Program grants from the Preservation 2000 Trust Fund; removing repealing provisions; providing an effective date.

—a companion measure, was substituted for **CS for SB 2184** and read the second time by title.

Senator Dantzler moved the following amendment:

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

Section 1. Paragraph (e) is added to subsection (2) of section 259.101, Florida Statutes, 1994 Supplement, and subsection (3) of said section is amended, to read:

259.101 Florida Preservation 2000 Act.—

(2) LEGISLATIVE FINDINGS.—The Legislature finds and declares that:

(e) South Florida's water supply and unique natural environment depend on the protection of lands buffering the East Everglades and the Everglades water conservation areas.

In addition, the Legislature recognizes the conflicting desires of the citizens of this state to prosper through economic development and to preserve the natural areas of Florida that development threatens to claim. The Legislature further recognizes the urgency of acquiring natural areas in the state for preservation, yet acknowledges the difficulty of ensuring adequate funding for accelerated acquisition in light of other equally critical financial needs of the state. It is the Legislature's desire and intent to fund the implementation of the Florida Preservation 2000 Act for each of the ten years of the program's duration and to do so in a fiscally responsible manner. The Legislature finds that issuing bonds to fund the program is necessary in the short term, but that issuing bonds throughout the life of the program will unduly add to the financial burden of the state. Therefore, the Legislature hereby declares its intent to identify, no later than May 1994, a permanent source of funds to dedicate for the implementation of the Florida Preservation 2000 Act and to discontinue the issuance of bonds upon identifying and dedicating that source.

(3) LAND ACQUISITION PROGRAMS SUPPLEMENTED.—Less the costs of issuance, the costs of funding reserve accounts, and other costs with respect to the bonds, the proceeds of bonds issued pursuant to this act shall be deposited into the Florida Preservation 2000 Trust Fund created by s. 375.045. *Ten percent of* the proceeds of any bonds deposited into the Preservation 2000 Trust Fund shall be distributed by the Department of Environmental Protection *to the Department of Environmental Protection for the purchase by the South Florida Water Man-*

agement District of lands in Dade, Broward, and Palm Beach Counties identified in section 4 of this act. This distribution shall apply for any bond issue for the 1995-1996 fiscal year. The remaining proceeds shall be distributed by the Department of Environmental Protection in the following manner:

(a) Fifty percent to the Department of Environmental Protection for the purchase of public lands as described in s. 259.032. Of this 50 percent, at least one-fifth shall be used for the acquisition of coastal lands.

(b) Thirty percent to the Department of Environmental Protection for the purchase of water management lands pursuant to s. 373.59, to be distributed among the water management districts as provided in that section. Funds received by each district may also be used for acquisition of lands necessary to implement surface water improvement and management plans approved in accordance with s. 373.456 or for acquisition of lands necessary to implement the Everglades Construction Project authorized by s. 373.4592.

(c) Ten percent to the Department of Community Affairs to provide land acquisition grants and loans to local governments through the Florida Communities Trust pursuant to part III of chapter 380. Of this 10 percent, one-half shall be matched by local governments on a dollar-for-dollar basis. An additional one-tenth shall be used specifically for matching grants, also on a dollar-for-dollar basis, to counties which submit projects for acquisitions within areas of critical state concern. For 3 fiscal years following the adoption of rules governing the operations of the Green Swamp Land Authority, an additional one-tenth shall be used specifically for the purchase through land protection agreements, as defined in s. 380.0677(5), of lands, or severable interests or rights in lands, in areas of critical state concern. To the extent allowed by federal requirements for the use of bond proceeds, the trust shall expend Preservation 2000 funds to carry out the purposes of part III of chapter 380.

(d) Two and nine-tenths percent to the Department of Environmental Protection for the purchase of inholdings and additions to state parks. For the purposes of this paragraph, "state park" means all real property in the state under the jurisdiction of the Division of Recreation and Parks of the department, or which may come under its jurisdiction.

(e) Two and nine-tenths percent to the Division of Forestry of the Department of Agriculture and Consumer Services to fund the acquisition of state forest inholdings and additions pursuant to s. 589.07.

(f) Two and nine-tenths percent to the Game and Fresh Water Fish Commission to fund the acquisition of inholdings and additions to lands managed by the commission which are important to the conservation of fish and wildlife.

(g) One and three-tenths percent to the Department of Environmental Protection for the Florida Rails to Trails Program, to acquire abandoned railroad rights-of-way and to assist in the acquisition of the Florida National Scenic Trail for use as public recreational trails.

Local governments may use federal grants or loans, private donations, or environmental mitigation funds, including environmental mitigation funds required pursuant to s. 338.250, for any part or all of any local match required for the purposes described in this subsection. Bond proceeds allocated pursuant to paragraph (c) may be used to purchase lands on the priority lists developed pursuant to s. 259.035. Title to lands purchased pursuant to paragraphs (a), (d), (e), (f), and (g) shall be vested in the Board of Trustees of the Internal Improvement Trust Fund, except that title to lands, or rights or interests therein, acquired by either the Southwest Florida Water Management District or the St. Johns River Water Management District in furtherance of the Green Swamp Land Authority's mission pursuant to s. 380.0677(3), shall be vested in the district where the acquisition project is located. Title to lands purchased pursuant to paragraph (c) may be vested in the Board of Trustees of the Internal Improvement Trust Fund, except that title to lands, or rights or interests therein, acquired by either the Southwest Florida Water Management District or the St. Johns River Water Management District in furtherance of the Green Swamp Land Authority's mission pursuant to s. 380.0677(3), shall be vested in the district where the acquisition project is located. Paragraphs (a) and (b) are repealed effective October 1, 2000, and paragraphs (c), (d), (e), (f), and (g) are repealed effective October 1, 1996. Prior to repeal, the Legislature shall review the provisions scheduled for repeal and shall determine whether to reenact or modify the provisions or to take no action.

Section 2. Paragraph (e) is added to subsection (11) of section 259.032, Florida Statutes, 1994 Supplement, to read:

259.032 Conservation and Recreation Lands Trust Fund; purpose.—

(11)(a) The Legislature recognizes that acquiring lands pursuant to this chapter serves the public interest by protecting land, air, and water resources which contribute to the public health and welfare, providing areas for natural resource based recreation, and ensuring the survival of unique and irreplaceable plant and animal species. The Legislature intends for these lands to be managed and maintained for the purposes for which they were acquired and for the public to have access to these lands where it is consistent with acquisition purposes and would not harm the resources the state is seeking to protect on the public's behalf.

(b) An amount equal to 1 percent of the cumulative total of funds ever deposited into the Florida Preservation 2000 Trust Fund shall be made available for the purposes of management, maintenance, and capital improvements, and for associated contractual services, for lands acquired pursuant to this section and s. 259.101 to which title is vested in the board of trustees. Each agency with management responsibilities shall annually request from the Legislature funds sufficient to fulfill such responsibilities. Capital improvements shall include, but need not be limited to, perimeter fencing, signs, firelanes, access roads and trails, and minimal public accommodations, such as primitive campsites, garbage receptacles, and toilets.

(c) In requesting funds provided for in paragraph (b) for long-term management of acquisitions and for associated contractual services, the managing agencies shall recognize the following categories of land management needs:

1. Lands which are low-need tracts, requiring basic resource management and protection, such as state reserves, state preserves, state forests, and wildlife management areas. These lands generally are open to the public but have no more than minimum facilities development.

2. Lands which are moderate-need tracts, requiring more than basic resource management and protection, such as state parks and state recreation areas. These lands generally have extra restoration or protection needs, higher concentrations of public use, or more highly developed facilities.

3. Lands which are high-need tracts, with identified needs requiring unique site-specific resource management and protection. These lands generally are sites with historic significance, unique natural features, or very high intensity public use, or sites that require extra funds to stabilize or protect resources.

(d) Up to one-fifth of the funds provided for in paragraph (b) shall be reserved by the board of trustees for interim management of acquisitions and for associated contractual services, to ensure the conservation and protection of natural resources on project sites and to allow limited public recreational use of lands. Interim management activities may include, but not be limited to, resource assessments, control of invasive exotic species, habitat restoration, fencing, law enforcement, controlled burning, and public access consistent with preliminary determinations made pursuant to paragraph (9)(b). The board of trustees shall make these interim funds available immediately upon purchase.

(e) The department shall set long-range and annual goals for the control and removal of nonnative, upland, invasive plant species on public lands. Such goals shall differentiate between aquatic plant species and upland plant species. In setting such goals, the department may rank, in order of adverse impact, species which impede or destroy the functioning of natural systems. Notwithstanding paragraph (a), up to one-fourth of the funds provided for in paragraph (b) shall be reserved for control and removal of nonnative, upland, invasive species on public lands.

Section 3. Subsection (1) of section 373.59, Florida Statutes, 1994 Supplement, are amended to read:

373.59 Water Management Lands Trust Fund.—

(1) There is established within the Department of Environmental Protection the Water Management Lands Trust Fund to be used as a nonlapsing fund for the purposes of this section. The moneys in this fund are hereby continually appropriated for the purposes of land acquisition, management, maintenance, capital improvements, payments in lieu of taxes, and administration of the fund in accordance with the provisions

of this section. *In addition, for fiscal year 1995-1996, moneys in the fund that are not revenues from the sale of any bonds and that are not required for debt service for any bond issue may be used to fund activities authorized under the Surface Water Improvement and Management Act, pursuant to ss. 373.451-373.4595, and for the control of aquatic weeds pursuant to Part II of chapter 369.* Up to *25* ~~15~~ percent of the moneys in the fund may be allocated annually to the districts for management, maintenance, and capital improvements pursuant to subsection (7).

Section 4. (1) The lands to be purchased in Dade, Broward, and Palm Beach Counties pursuant to s. 259.101(3), Florida Statutes, as amended by this act, are further described as follows:

(a) A parcel of land in Sections 19, 20, 21, 28 and 29, Township 47 South, Range 41 East, Palm Beach County, Florida, more specifically described as follows:

Begin at the Northeast (NE) corner of said Section 21, thence run South 00°51'13" East, along the East line of said Section 21, a distance of 5287.55 feet to the Southeast (SE) corner of said Section 21; thence, North 89°45'24" West, along the South line of said Section 21, a distance of 130.01 feet; thence, South 00°48'38" East, along a line that is 130 feet west of, and parallel with the east line of said Section 28, said line being also the West line of a 100 foot easement granted to Lake Worth Drainage District, as recorded in Official Records Book 5053, Pages 474 and 475, Palm Beach County Public Records, a distance of 2425.75 feet to the North right-of-way lien of South Florida Water Management District's Hillsboro Canal; thence, North 71°39'51" West, along said north right-of-way line of said Hillsboro Canal, a distance of 5453.50 feet to the west line of said Section 28; thence, North 71°39'51" West, continuing along said north right-of-way line of said Hillsboro Canal, a distance of 4190.67 feet to the intersection thereof with the West line of the East three-quarters (E.3/4) of said section 20, a line established in Official Records Book 3908, Page 337, Palm Beach County Public Records; thence, North 71°39'51" West, continuing along said North right-of-way line of said Hillsboro Canal, a distance of 5752.25 feet; thence, North 05°02'30" East, departing from said North right-of-way line of said Hillsboro Canal, a distance of 211.51 feet to the Southeasterly right-of-way line of South Florida Water Management District's Levee 40; thence, North 57°02'31" East, along said southeasterly right-of-way line of said Levee 40, a distance of 4936.60 feet to the intersection thereof with the South right-of-way line of said Levee 40, said line being also the North line of said Section 20; thence, South 89°20'50" East, along said South right-of-way line of said Levee 40, and said North line of said Section 20, a distance of 1231.51 feet to the intersection thereof with said West line of said East three-quarters (E 3/4) of said Section 20, said line established in said Official Records Book 3908, Page 337; thence, South 89°53'08" East, continuing along said South right-of-way line of said Levee 40 and said North line of said Section 20, a distance of 3958.86 feet to the Northwest corner of said Section 21; thence, South 89°49'14" East, continuing along said South right-of-way line of said Levee 40 also being the North line of said Section 21, a distance of 5280.57 feet to the Northeast corner of said Section 21 and the POINT OF BEGINNING.

(b) All that portion of Section 28, Township 47 South, Range 41 East lying Southerly of State Road 827.

(c) The South half of Section 15, Township 50 South, Range 39 East lying Easterly of U.S. Highway 27 and the Southwest quarter of Section 14, Township 50 South, Range 39 East less the East quarter thereof, and that portion of Section 22, Township 50 South, Range 39 East lying Easterly of U.S. Highway 27, and the Northwest quarter of Section 23, Township 50 South, Range 39 East less the South half of the Southeast quarter thereof; and the North half of Section 27, Township 50 South, Range 39 East lying Easterly of U.S. Highway 27; and the West quarter of Section 26, Township 50 South, Range 39 East lying Northerly of South Florida Water Management District's C11 Canal.

(d) All that portion of Section 4, Township 52 South, Range 39 East lying Easterly of South Florida Water Management District's levee 33; and Section 3, Township 52 South, Range 39 East lying Westerly of Krome Avenue and Westerly of U.S. Highway 27; and Section 9, Township 52 South, Range 39 East lying East of said District's Miami Canal and Westerly of Krome Avenue.

(e) All that portion of Section 3, Township 52 South, Range 39 East lying Westerly of U.S. Highway 27 and Easterly of Krome Avenue.

(f) All that portion of the South half of Section 15 and the North half of Section 22, Township 51 South, Range 39 East, lying Easterly of U.S. Highway 27.

(g) All that portion of the South half of Section 22, Sections 27 and 34, Township 51 South, Range 39 East, lying Easterly of U.S. Highway 27.

(h) All of Section 35, Township 51 South, Range 39 East.

(i) All that portion of Section 4 lying Westerly of Interstate Highway 75 and Northerly of Florida's Turnpike Extension and that portion of Section 5 lying Northerly of Florida's Turnpike Extension, in Township 52 South, Range 40 East.

(j) All that portion of Sections 17, 19, 20, and 30 lying Easterly and Southerly of Krome Avenue, all of Section 29, and the North 1/2 and the East quarter of the South half of Section 31 lying Easterly of Krome Avenue, and all of Section 32, all in Township 52 South, Range 39 East; and all that portion of Sections 5, 6, 7, 8, 17, 18, 19, 20, 29, and 30 lying Easterly of Krome Avenue in Township 53 South, Range 39 East.

(k) The West half of U.S. Government Lot 3 in the hiatus between Township 53 South, Range 39 East and Township 54 South, Range 39 East; and all that portion of Section 4 and the West half of Section 3 lying Northerly of Tamiami Trail in Township 54 South, Range 39 East.

(2) Pursuant to its authority under s. 11.242(5)(j), Florida Statutes, the Division of Statutory Revision of the Joint Legislative Management Committee shall omit this section from the next edition and subsequent editions of the official Florida Statutes.

Section 5. This act shall take effect July 1, 1995.

And the title is amended as follows:

In title, on page 1, line 7, after the semicolon (;) insert: amending s. 259.032, F.S.; providing funding for the control of upland, exotic plant species; amending s. 373.59, F.S.; authorizing the use of certain funds in the Water Management Lands Trust Fund for activities under the Surface Water Improvement and Management Act and the control of aquatic plants;

Senators Williams and Bronson offered the following amendment to **Amendment 1** which was moved by Senator Williams and adopted:

Amendment 1A (with Title Amendment)—On page 1, between lines 11 and 12, insert:

Section 1. Subsections (4) through (27) of section 376.301, Florida Statutes, 1994 Supplement, are renumbered as subsections (5) through (28), respectively, and a new subsection (4) is added to said section to read:

376.301 Definitions of terms used in ss. 376.30-376.319, 376.70, and 376.75.—When used in ss. 376.30-376.319, 376.70, and 376.75, unless the context clearly requires otherwise, the term:

(4) "Cattle-dipping vat" means any structure, excavation, or other facility constructed by any person, or the site where such structure, excavation, or other facility once existed, for the purpose of treating cattle or other livestock with a chemical solution pursuant to or in compliance with any local, state, or federal governmental program for the prevention, suppression, control, or eradication of any dangerous, contagious, or infectious diseases.

Section 2. Subsection (15) is added to section 253.025, Florida Statutes, 1994 Supplement, to read:

253.025 Acquisition of state lands for purposes other than preservation, conservation, and recreation.—

(16) Many parcels of land acquired pursuant to this section may contain cattle-dipping vats as defined in s. 376.301. The state is encouraged to continue with the acquisition of such lands including the cattle-dipping vat.

Section 3. Subsection (18) is added to section 259.041, Florida Statutes, 1994 Supplement, to read:

259.041 Acquisition of state-owned lands for preservation, conservation, and recreation purposes.—

(18) Many parcels of land acquired pursuant to this section may contain cattle-dipping vats as defined in s. 376.301. The state is encouraged to continue with the acquisition of such lands including the cattle-dipping vats.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 13, line 27, after the semicolon (;) insert: amending s. 376.301, F.S.; providing a definition of the term "cattle-dipping vat"; amending s. 253.025, F.S., pertaining to acquisition of state lands for purposes other than preservation, conservation, and recreation; encouraging the state to continue to acquire lands containing cattle-dipping vats; amending s. 259.041, F.S., pertaining to the acquisition of state-owned lands for preservation, conservation, and recreation purposes; encouraging the state to continue to acquire lands containing cattle-dipping vats;

Amendment 1 as amended was adopted.

On motion by Senator Dantzler, by two-thirds vote **HB 647** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

On motion by Senator Latvala, by two-thirds vote **HB 1671** was withdrawn from the Committees on Transportation; and Ways and Means.

On motion by Senator Latvala—

HB 1671—A bill to be entitled An act relating to the Department of Transportation; amending chapter 85-364, Laws of Florida; directing the department to use certain tolls collected on the Pinellas Bayway for certain improvements and projects; providing for the inclusion of such improvements in the 5-year work program; providing an effective date.

—a companion measure, was substituted for **SB 1596** and read the second time by title. On motion by Senator Latvala, by two-thirds vote **HB 1671** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Wexler, by two-thirds vote **CS for HB 67** was withdrawn from the Committees on Governmental Reform and Oversight; Community Affairs; and Ways and Means.

On motion by Senator Wexler—

CS for HB 67—A bill to be entitled An act relating to firefighters, paramedics, emergency medical technicians, law enforcement officers, and correctional officers; providing legislative intent; creating s. 112.181, F.S.; providing definitions; excluding certain employees from application of the act; providing that a disability caused by certain diseases shall be presumed to have been suffered in the line of duty in certain circumstances and if certain conditions are met; authorizing certain insurance contracts to include coverage for such disabilities; requiring records to be kept of an employee's exposure to such disease; requiring an employee to be notified of such exposure; requiring prior medical test results and providing for preemployment tests for exposure; providing a contribution rate increase to fund the act; providing for construction; amending s. 440.49, F.S.; to temporarily freeze the assessment rate on the Special Disability Trust Fund; providing an effective date.

—a companion measure, was substituted for **SB 702** and read the second time by title.

Senator Myers moved the following amendment which failed:

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

Section 1. Creating a study on communicable disease contraction in public sector police, fire and correctional employment.

(a) The Advisory Council on Intergovernmental Relations, in conjunction with an advisory committee, shall conduct a study on communicable disease contraction in public sector police, fire, and correctional employment to determine the incidence rates of, exposure to, and acquisition of communicable diseases. The committee shall report on the types of communicable diseases, immunization levels, occupational status, and claims for in-line-of-duty job disability benefits.

(b) The advisory committee shall be composed of five members, three of which shall be appointed by the Governor, one by the President of the Senate, and one by the Speaker of the House. Three of the advisory committee members shall be physicians with expertise in epidemiology or communicable diseases. One member of the advisory committee shall be from the state office of epidemiology. One member of the advisory committee shall have expertise in communicable disease research or statistical analysis.

(c) A final report of the findings of the committee shall be submitted to the Governor, President of the Senate, and Speaker of the House before October 1, 1995.

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

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act creating a study on communicable disease contraction in public sector police, fire and correctional employment; providing an effective date.

The vote was:

Yeas—14 Nays—22

On motion by Senator Wexler, by two-thirds vote **CS for HB 67** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—25 Nays—10

SB 272—A bill to be entitled An act relating to sentencing; requiring courts to state the dates projected for defendants to be released based upon information provided by the Department of Corrections; providing an effective date.

—was read the second time by title.

Senators Crist and Wexler offered the following amendments which were moved by Senator Crist and adopted:

Amendment 1—On page 1, between lines 14 and 15, insert:

Section 2. The Department of Corrections shall implement a plan by December 1, 1995, to require that selected inmates perform labor wearing leg irons in chain gang work groups.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 5, after the semicolon (;) insert: requiring the department to implement a plan relating to inmate labor;

On motion by Senator McKay, by two-thirds vote **SB 272** 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—1

THE PRESIDENT PRESIDING

MOTION

On motion by Senator Jennings, the rules were waived and by two-thirds vote **CS for SB 2074, SB 2250, SB 466, SB 2306, CS for SB's 2944 and 2206, SB 506, SB 1576, SB 2492** and **CS for SB 2198** were placed on the Special Order Calendar to be considered following **SB 1484**.

On motion by Senator McKay, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives returns, as requested, SB 852.

John B. Phelps, Clerk

SB 852—A bill to be entitled An act relating to public employees; amending ss. 231.40, 240.343, F.S.; limiting the amount of pay that certain employees of district school systems and community colleges may receive for unused sick leave upon termination of employment; providing for no adverse effect on vested rights; amending s. 231.41, F.S.; conforming a cross-reference; providing an effective date.

RECONSIDERATION

On motion by Senator McKay, the Senate reconsidered the vote by which **SB 852** passed as amended May 4.

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

Amendment 5 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Section 231.40, Florida Statutes, is amended to read:

231.40 Sick leave.—

(1) DEFINITIONS.—As used in this section, unless the context otherwise requires, the term:

(a) "Educational support employee" means any person employed by a district school board as a teacher aide, a teacher assistant, an education paraprofessional, a member of the transportation, operations, maintenance, or food service department, or a secretary or a clerical employee.

(b) "Instructional staff" shall be used synonymously with the word "teacher" and includes teachers, librarians, and other comparable members engaged in an instructional capacity in the schools.

(2)~~(1)~~ ELIGIBILITY.—Any member of the instructional staff or any other employee of a district school system employed on a full-time basis in the public schools of the state who is unable to perform his duty in the school on account of personal sickness, accident disability, or extended personal illness, or because of illness or death of father, mother, brother, sister, husband, wife, child, other close relative, or member of his own household, and consequently has to be absent from his work shall be granted leave of absence for sickness by the superintendent or by someone designated in writing by him to do so.

(3)~~(2)~~ PROVISIONS GOVERNING SICK LEAVE.—The following provisions shall govern sick leave:

(a) Extent of leave.—

1. Each member of the instructional staff employed on a full-time basis shall be entitled to 4 days of sick leave as of the first day of employment of each contract year and shall thereafter earn 1 day of sick leave for each month of employment, which shall be credited to the member at the end of that month and which shall not be used prior to the time it is earned and credited to the member. Each other employee shall be credited with 4 days of sick leave at the end of the first month of employment of each contract year and shall thereafter be credited for 1 day of sick leave for each month of employment, which shall be credited to the employee at the end of the month and which shall not be used prior to the time it is earned and credited to the employee. However, each member of the instructional staff and each other employee shall be entitled to earn no more than 1 day of sick leave times the number of months of employment during the year of employment. If the employee terminates his employment and has not accrued the 4 sick days available to him, the school board may withhold the average daily amount for the sick days utilized but unearned by the employee. Such leave shall be taken only when necessary because of sickness as herein prescribed. Such sick leave shall be cumulative from year to year. There shall be no limit on the number of days of sick leave which a member of the instructional staff *or an educational support employee* may accrue, except that at least one-half of this cumulative leave must be established within the district granting such leave.

2. A school board may establish policies and prescribe standards to permit an employee to be absent 6 days each school year for personal reasons. However, such absences for personal reasons shall be charged only to accrued sick leave, and leave for personal reasons shall be noncumulative.

3. District school boards are authorized to adopt rules permitting the annual payment for accumulated sick leave that is earned for that year and that is unused at the end of the school year, based on the daily rate of pay of the employee multiplied by *up to* 80 percent. Days for which such payment is received shall be deducted from the accumulated leave balance. *Such annual payment may apply only to instructional staff and educational support employees.*

4. A school board may establish policies to provide terminal pay for accumulated sick leave to *instructional staff and educational support employees* ~~any employee~~ of the district school board. If termination of employment is by death of the employee, any terminal pay to which the employee may have been entitled may be made to his beneficiary. However, such terminal pay shall not exceed an amount determined as follows:

a. During the first 3 years of service, the daily rate of pay multiplied by 35 percent times the number of days of accumulated sick leave.

b. During the next 3 years of service, the daily rate of pay multiplied by 40 percent times the number of days of accumulated sick leave.

c. During the next 3 years of service, the daily rate of pay multiplied by 45 percent times the number of days of accumulated sick leave.

d. During the next 3 years of service, the daily rate of pay multiplied by 50 percent times the number of days of accumulated sick leave.

e. During and after the 13th year of service, the daily rate of pay multiplied by 100 percent times the number of days of accumulated sick leave.

5. A school board may establish policies to provide terminal pay for accumulated sick leave to any full-time employee of the district school board other than instructional staff or educational support employees as defined in this section. If termination of the employee is by death of the employee, any terminal pay to which the employee may have been entitled may be made to the employee's beneficiary. However, for such employees hired on or after July 1, 1995, terminal pay shall not exceed an amount determined as follows:

a. One-fourth of all unused sick leave accumulated on or after July 1, 1995; however, terminal pay allowable for such accumulated sick leave shall not exceed a maximum of 60 days of actual payment.

b. For unused sick leave accumulated prior to July 1, 1995, terminal payment shall be made pursuant to a district school board's policies which are in effect on July 1, 1995.

(b) Claim must be filed.—Any district school board employee who finds it necessary to be absent from his duties because of illness, as defined in this section, shall notify his immediate supervisor, if possible, before the beginning of the workday on which he must be absent or during that day, except for emergency reasons recognized by the school board as valid. Any district school board employee shall, before claiming and receiving compensation for the time absent from his duties while absent because of sick leave as prescribed in this section, make and file within 5 working days following his return from such absence with the superintendent of the district in which he is so employed a written certificate which shall set forth the day or days absent, that such absence was necessary, and that he is entitled or not entitled to receive pay for such absence in accordance with the provisions of this section; however, the school board of any district may prescribe regulations under which the superintendent may require a certificate of illness from a licensed physician or from the county health officer.

(c) Compensation.—Any employee having unused sick leave credit shall receive full-time compensation for the time justifiably absent on sick leave, but no compensation may be allowed beyond that which may be provided in subsection *(4)*~~(3)~~.

(d) Expenditure authorized.—District school boards are authorized to expend public funds for payment to employees on account of sickness. The expending and excluding of such funds shall be in compliance with rules promulgated by the Department of *Management Services* ~~Administration~~ pursuant to chapter 650.

(4)~~(3)~~ SICK LEAVE POOL.—Notwithstanding any other provision of this section, a school board, based upon the maintenance of reliable and accurate records by the district school system showing the amount of sick leave which has been accumulated and is unused by employees in accordance with this section, may, by rule or collective bargaining agreement, establish one or more plans allowing participating full-time employees of a district school system to pool sick leave accrued and allowing any sick leave thus pooled to be disbursed to any participating employee who is in need of sick leave in excess of that amount he has personally accrued. Such rules or agreements shall include, but not be limited to, the following provisions:

(a) Participation in any sick leave pool shall at all times be voluntary on the part of employees.

(b) Any full-time employee shall be eligible for participation in any sick leave pool after 1 year of employment with the district school system, provided such employee has accrued a minimum amount of unused sick leave, which minimum shall be established by rule and provided further, a sick leave pool is established that allows participation by that particular employee.

(c) Any sick leave pooled pursuant to this section shall be removed from the personally accumulated sick leave balance of the employee donating such leave.

(d) Participating employees shall make equal contributions to the sick leave pool. There shall be established a maximum amount of sick leave which may be contributed by an employee to the pool. After the initial contribution which an employee makes upon electing to participate, no further contributions shall be required except as may be necessary to replenish the pool. Any such further contribution shall be equally required of all employees participating in the pool.

(e) Any sick leave time drawn from the pool by a participating employee must be used for said employee's personal illness, accident, or injury.

(f) A participating employee shall not be eligible to use sick leave from the pool until all of his sick leave has been depleted, unless otherwise agreed to in a collective bargaining agreement. There shall be established a maximum number of days for which an employee may draw sick leave from the sick leave pool.

(g) A participating employee who uses sick leave from the pool shall not be required to recontribute such sick leave to the pool, except as otherwise provided in this section.

(h) A participating employee who chooses to no longer participate in the sick leave pool shall not be eligible to withdraw any sick leave already contributed to the pool.

(i) Alleged abuse of the use of the sick leave pool shall be investigated and, on a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn from the sick leave pool and be subject to such other disciplinary action as determined by the school board to be appropriate. Rules adopted for the administration of this program shall provide for the investigation of the use of sick leave utilized by the participating employee in the sick leave pool.

Section 2. Subsection (2) of section 231.41, Florida Statutes, is amended to read:

231.41 Illness-in-line-of-duty leave.—Any district school board employee shall be entitled to illness-in-line-of-duty leave when he has to be absent from his duties because of a personal injury received in the discharge of duty or because of illness from any contagious or infectious disease contracted in school work. The following requirements shall be observed:

(2) CLAIMS.—Any district school board employee who has any claim for compensation while absent because of illness contracted or injury incurred as prescribed herein shall file a claim in the manner prescribed in s. 231.40*(3)*~~(2)~~(b) within 5 working days following his return from such absence. The school board of the district in which such person is employed shall approve such claims and authorize the payment thereof if the board is satisfied that the claim correctly states the facts and that such claim is entitled to payment in accordance with the provisions of this section.

Section 3. Section 231.481, Florida Statutes, is amended to read:

231.481 Terminal pay for accrued vacation leave.—A district school board may establish policies to provide for a lump-sum payment for accrued vacation leave to an employee of the school board upon termination of employment or upon retirement, or to the employee's beneficiary if service is terminated by death. *Effective July 1, 1995, terminal pay for accrued vacation leave may not exceed a maximum of 60 days of actual payment for employees hired on or after that date.*

Section 4. Section 240.343, Florida Statutes, is amended to read:

240.343 Sick leave.—Each community college district board of trustees shall adopt rules whereby any full-time employee who is unable to perform his duties at the college on account of personal sickness, accident disability, or extended personal illness, or because of illness or death of the employee's father, mother, brother, sister, husband, wife, child, or other close relative or member of the employee's own household, and who consequently has to be absent from work shall be granted leave of absence for sickness by the president or by the president's designated representative. The following provisions shall govern sick leave:

(1) DEFINITIONS.—As used in this section, unless the context otherwise requires, the term:

(a) "Educational support employee" means any person employed by a community college as an education or administrative paraprofessional, a member of the operations, maintenance, or comparable department, or a secretary, clerical, or comparable level support employee.

(b) "Instructional staff" shall be used synonymously with the word "teacher" or "faculty" and includes faculty members, librarians, counselors, and other comparable members engaged in an instructional capacity in the community college.

(2)~~(1)~~ EXTENT OF LEAVE WITH COMPENSATION.—

(a) Each full-time employee shall earn 1 day of sick leave with compensation for each calendar month or major fraction of a calendar month of service, not to exceed 12 days for each fiscal year. Such leave shall be taken only when necessary because of sickness as herein prescribed. Such sick leave shall be cumulative from year to year. Accumulated sick leave may be transferred from another Florida community college, the Florida Department of Education, the State University System, a Florida district school board, or a state agency, provided that at least one-half of the sick leave accumulated at any time must have been established in the college in which such employee is currently employed.

(b) A board of trustees may establish rules and prescribe procedures whereby a full-time employee may, at the beginning date of employment in any year, be credited with 12 days of sick leave with compensation in excess of the number of days the employee has earned. Upon termination of employment, the employee's final compensation shall be adjusted in an amount necessary to ensure that sick leave with compensation does not exceed the days of earned sick leave as provided herein.

(c) A board of trustees may establish rules and prescribe standards to permit a full-time employee to be absent no more than 4 days for personal reasons. However, such absences for personal reasons shall be charged only to accrued sick leave, and leave for personal reasons shall be noncumulative.

(d) A board of trustees may establish rules to provide terminal pay for accumulated sick leave to ~~a~~ full-time *instructional staff and educational support employees* ~~employee~~ or to *the employee's* ~~his~~ beneficiary if service is terminated by death. However, such terminal pay may not exceed an amount determined as follows:

1. During the first 3 years of service, the daily rate of pay multiplied by 35 percent times the number of days of accumulated sick leave.

2. During the next 3 years of service, the daily rate of pay multiplied by 40 percent times the number of days of accumulated sick leave.

3. During the next 3 years of service, the daily rate of pay multiplied by 45 percent times the number of days of accumulated sick leave.

4. During the 10th year of service, the daily rate of pay multiplied by 50 percent times the number of days of accumulated sick leave.

5. During the next 20 years of service, the daily rate of pay multiplied by 50 percent plus up to an additional 2.5 percent per year for each year of service beyond 10 years, times the number of days of accumulated sick leave.

If an employee receives terminal pay benefits based on unused sick leave credit, all unused sick leave credit shall become invalid; however, if an employee terminates his employment without receiving terminal pay benefits and is reemployed, his sick leave credit shall be reinstated.

(e) A board of trustees may establish rules or policies to provide terminal pay for accumulated sick leave to any full-time employee of a community college other than instructional staff or educational support employees as defined in this section. If termination of employment is by death of the employee, any terminal pay to which the employee may have been entitled may be made to the employee's beneficiary. However, for such employees hired on or after July 1, 1995, terminal pay shall not exceed an amount determined as follows:

1. One-fourth of all unused sick leave accumulated on or after July 1, 1995; however, terminal pay allowable for such accumulated sick leave shall not exceed a maximum of 60 days of actual payment.

2. For unused sick leave accumulated prior to July 1, 1995, terminal payment shall be made pursuant to a board of trustees' policies which are in effect on July 1, 1995.

(3)~~(2)~~ CLAIM MUST BE FILED.—Any full-time employee who finds it necessary to be absent from his duties because of illness as defined in this section shall notify the president or a college official designated by the president, if possible before the opening of college on the day on which the employee must be absent or during the day, except when he is absent for emergency reasons recognized by the board of trustees as valid. Any employee shall, before claiming and receiving compensation for the time absent from his duties while absent because of sick leave as prescribed in this section, make and file a written certificate which shall set forth the day or days absent, that such absence was necessary, and that he is entitled or not entitled to receive pay for such absence in accordance with the provisions of this section. The board of trustees may prescribe rules under which the president may require a certificate of illness from a licensed physician or from the county health officer.

(4)~~(3)~~ COMPENSATION.—Any full-time employee who has unused sick leave credit shall receive full-time compensation for the time justifiably absent on sick leave; no compensation may be allowed beyond that provided in subsection *(6)*~~(4)~~.

(5)~~(4)~~ EXPENDITURE AUTHORIZED.—Community college boards of trustees are authorized to expend public funds for payment to employees on account of sickness. The expending and excluding of such funds shall be in compliance with rules adopted by the Department of Management Services pursuant to chapter 650.

(6)~~(5)~~ SICK LEAVE POOL.—Notwithstanding any other provision of this section, a board of trustees may, by rule, based upon the maintenance of reliable and accurate records by the community college showing the amount of sick leave which has been accumulated and is unused by employees in accordance with this section, establish a plan allowing participating full-time employees of the community college to pool sick leave accrued and allowing any sick leave thus pooled to be disbursed to any participating employee who is in need of sick leave in excess of that amount he has personally accrued. Such rules shall include, but not be limited to, the following provisions:

(a) Participation in the sick leave pool shall at all times be voluntary on the part of employees.

(b) Any full-time employee shall be eligible for participation in the sick leave pool after 1 year of employment with the community college, provided such employee has accrued a minimum amount of unused sick leave, which minimum shall be established by rule.

(c) Any sick leave pooled pursuant to this section shall be removed from the personally accumulated sick leave balance of the employee donating such leave.

(d) Participating employees shall make equal contributions to the sick leave pool. There shall be established a maximum amount of sick leave which may be contributed to the pool by an employee. After the initial contribution which an employee makes upon electing to participate, no further contributions shall be required except as may be necessary to replenish the pool. Any such further contribution shall be equally required of all employees participating in the pool.

(e) Any sick leave time drawn from the pool by a participating employee must be used for that employee's personal illness, accident, or injury.

(f) A participating employee will not be eligible to use sick leave from the pool until all of his sick leave has been depleted. There shall be established a maximum number of days for which an employee may draw sick leave from the sick leave pool.

(g) A participating employee who uses sick leave from the pool will not be required to recontribute such sick leave to the pool, except as otherwise provided herein.

(h) A participating employee who chooses to no longer participate in the sick leave pool will not be eligible to withdraw any sick leave already contributed to the pool.

(i) Alleged abuse of the use of the sick leave pool shall be investigated, and, on a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn from the sick leave pool and shall be subject to such other disciplinary action as is determined by the board to be appropriate. Rules adopted for the administration of this program shall provide for the investigation of the use of sick leave utilized by the participating employee in the sick leave pool.

Section 5. This act shall take effect July 1, 1995.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to education; amending ss. 231.40 and 240.343, F.S.; revising provisions relating to sick leave for school district and community college employees; providing definitions; limiting the amount of pay certain employees may receive for unused sick leave upon termination of employment; amending s. 231.41, F.S.; correcting a cross reference; amending s. 231.481, F.S.; limiting the amount of pay for unused vacation leave upon termination of employment; providing an effective date.

On motion by Senator McKay, **SB 852** as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37 Nays—None

RECONSIDERATION

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

SB 852—A bill to be entitled An act relating to public employees; amending ss. 231.40, 240.343, F.S.; limiting the amount of pay that certain employees of district school systems and community colleges may receive for unused sick leave upon termination of employment; providing for no adverse effect on vested rights; amending s. 231.41, F.S.; conforming a cross-reference; providing an effective date.

—passed as amended this day.

On motion by Senator McKay, by two-thirds vote—

HB 1383—A bill to be entitled An act relating to education; amending ss. 231.40 and 240.343, F.S.; revising provisions relating to sick leave for school district and community college employees; providing definitions; limiting the amount of pay certain employees may receive for unused sick leave upon termination of employment; amending s. 231.41, F.S.; correcting a cross reference; amending s. 231.481, F.S.; limiting the amount of pay for unused vacation leave upon termination of employment; providing an effective date.

—a companion measure, was substituted for **SB 852** and by two-thirds vote read the second time by title. On motion by Senator McKay, by two-thirds vote **HB 1383** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SPECIAL ORDER, continued

On motion by Senator Grant, by two-thirds vote **CS for HB 2317** was withdrawn from the Committees on Banking and Insurance; and Ways and Means.

On motion by Senator Grant—

CS for HB 2317—A bill to be entitled An act relating to mortgage brokering and lending; amending s. 494.001, F.S.; revising certain definitions; amending s. 494.0017, F.S.; revising provisions relating to transfers of moneys in the Mortgage Brokerage Guaranty Fund; creating s. 494.00171, F.S.; imposing special assessments; providing for deposit of such assessments; providing for transfer of such assessments into the Mortgage Brokerage Guaranty Fund; amending s. 494.0025, F.S.; specifying additional prohibited practices; creating s. 494.0026, F.S.; providing for disposition of insurance proceeds; creating s. 494.0028, F.S.; providing for arbitration; providing procedures and criteria; amending s. 494.003, F.S.; providing for exemptions; providing for a report; amending s. 494.0031, F.S.; providing for cancellation of licenses, permits, or registrations under certain circumstances; requiring notice; providing for reinstatement; creating s. 494.00311, F.S.; providing for mortgage brokerage schools; providing requirements; prohibiting certain activities relating to mortgage brokering courses; providing a penalty; amending s. 494.0033, F.S.; providing for cancellation of licenses, permits, or registrations under certain circumstances; requiring notice; providing for reinstatement; creating s. 494.00331, F.S.; providing a limitation on mortgage broker association; amending s. 494.0042, F.S.; providing a limitation on receiving brokerage fees; creating s. 494.00421, F.S.; requiring disclosure of certain information in contracts pursuant to which a mortgage brokerage fee is received; providing an exemption from such disclosure to certain nonresidential mortgages under certain circumstances; amending s. 494.006, F.S.; providing for exemptions; providing for a report; amending s. 494.0061, F.S.; providing for issuance of mortgage lender's licenses to certain business entities under certain circumstances; providing for cancellation of licenses, permits, or registrations under certain circumstances; requiring notice; providing for reinstatement; amending s. 494.0062, F.S.; provides for issuance of an initial correspondent mortgage lender's license to certain business entities; providing for cancellation of licenses, permits, or registrations under certain circumstances; requiring notice; providing for reinstatement; amending s. 494.0065, F.S.; requiring continuous maintenance of minimum net worth; requiring audited financial statements documenting net worth; amending s. 494.0069, F.S.; providing additional requirements for issuing mortgage loan rate lock-in agreements; amending s. 494.0071, F.S.; clarifying application of provisions relating to expiration of lock-in agreements or commitments; creating s. 494.00721, F.S.; providing requirements for net worth; providing an appropriation; providing effective dates.

—a companion measure, was substituted for **SB 2168** and read the second time by title. On motion by Senator Grant, by two-thirds vote **CS for HB 2317** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motion by Senator Forman, by unanimous consent—

CS for CS for HB 495—A bill to be entitled An act relating to services provided under Medicaid; amending s. 409.906, F.S.; allowing the Agency for Health Care Administration to pay for certain outpatient dialysis services; amending s. 409.908, F.S.; prescribing the amount of the reimbursement allowed to the provider of certain outpatient dialysis services; replacing the term "department" with the term "agency" to conform to changes made by s. 4 of ch. 94-299, Laws of Florida; providing an effective date.

—was taken up out of order. On motions by Senator Forman, by two-thirds vote **CS for CS for HB 495** was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

LOCAL BILLS

On motions by Senator Latvala, by two-thirds vote—

HB 225—A bill to be entitled An act relating to the Palm Harbor Special Fire Control District, Pinellas County; authorizing an increase in ad valorem tax millage; providing a referendum.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motions by Senator Myers, by two-thirds vote—

HB 601—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 and to make it available to the public for recreational purposes; providing that land thus received shall lie within the district and East of Canal 18 of the South Florida Water Management District; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motions by Senator Dyer, by two-thirds vote—

HB 1273—A bill to be entitled An act relating to the City of Ocoee, Orange County; providing the city commission with the authority, by ordinance and without referendum, to amend the city's municipal charter, to provide for new election dates for municipal elections and to further amend the city's municipal charter to provide for new beginning dates for terms of office and to provide for extended or shortened terms for incumbents to coincide with such new election dates; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motions by Senator Dyer, by two-thirds vote—

HB 1281—A bill to be entitled An act relating to the West Orange Healthcare District; amending sections 14 and 15 of chapter 26066, Laws of Florida, 1949, as amended; limiting the authorized rates of taxation of property for certain purposes; providing for future repeal of the authority to levy such taxes; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motions by Senator Myers, by two-thirds vote—

HB 1293—A bill to be entitled An act relating to Northern Palm Beach County Water Control District, Palm Beach County; amending chapter 59-994, Laws of Florida, as amended, by changing the name of the district to the Northern Palm Beach County Improvement District; clarifying the district's authority to provide, finance, construct, operate, and maintain (public and) community or public preserves, playgrounds, amphitheaters, and recreation and sports areas and facilities, including equipment and apparatus required or related thereto, to appoint an officer or employee to recommend for adoption district policies and procedures for the management and operation of the district, including delegation of enforcement and implementation of the policies and procedures, to adopt, by resolution, rules, and procedures for the letting of contracts which don't exceed the Category 2 amount of s. 287.017, F.S.; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motions by Senator McKay, by two-thirds vote—

HB 1601—A bill to be entitled An act relating to the Parrish Fire Control District, Manatee County; amending chapter 85-451, Laws of Florida, as amended; providing for election of commissioners; increasing the rates for special assessments; increasing impact fees; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motions by Senator McKay, by two-thirds vote—

HB 1643—A bill to be entitled An act relating to the Trailer Estates Fire Control District, Manatee County; amending chapter 63-1587, Laws of Florida, as amended, to change assessments for residences; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motions by Senator Harris, by two-thirds vote—

HB 1945—A bill to be entitled An act relating to the Sarasota County Public Hospital Board; amending chapter 26468, Laws of Florida, 1949, as amended, to provide that the members of the Hospital Board shall be entitled to reimbursement for the amount of actual expenses incurred by them in the performance of their duties; providing that the board may invest funds in negotiable direct obligations of Federal Agencies or Government Sponsored Enterprises which meet certain criteria; providing that the powers of the Hospital Board as authorized may be exercised; amending chapter 83-525, Laws of Florida, to provide that the term "operations of the hospital" does not include certain shared service arrangements of Sarasota Memorial Hospital; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motion by Senator Childers, by two-thirds vote—

HB 2021—A bill to be entitled An act relating to Bay County; amending chapter 23183, Laws of Florida, 1945, as amended; providing for the appointment of the Board of Trustees of Bay Medical Center by a local process of nomination and confirmation; providing for the powers and purposes of the Board of Trustees of Bay Medical Center; establishing procedures for the conduct of business by the Board of Trustees of Bay Medical Center; providing for liberal construction and severability; providing that this act shall not be construed against the existing powers of said Board; authorizing the disposition of certain assets under certain circumstances; providing a procedure to dissolve the said Board of Trustees; providing for this act to supersede special acts in conflict herewith to the extent of such conflict; providing an effective date.

—was read the second time by title.

Senators Harden, Childers and Thomas offered the following amendments which were moved by Senator Childers and adopted:

Amendment 1—On page 1, strike line 26 and insert: is amended, and sections 11, 12, 13, 14, 15, and 16 are

Amendment 2—On page 14, strike all of lines 24-26

Amendment 3—On page 16, strike all of lines 10 and 11 and insert: some of the assets distributed to it, then a court of competent jurisdiction, in an action brought for that purpose, shall order the disposition of such nondistributable

On motion by Senator Childers, by two-thirds vote **HB 2021** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motions by Senator Dudley, by two-thirds vote—

HB 2183—A bill to be entitled An act relating to the Fort Myers Beach Fire Control District, Lee County; amending chapter 27676, Laws of Florida, 1951, as amended; providing for user fees for emergency medical services; providing for a referendum.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motions by Senator Dudley, by two-thirds vote—

HB 2185—A bill to be entitled An act relating to the Lee County Mosquito Control District; amending chapter 67-1630, Laws of Florida; defining boundaries of the district; providing for division of the district into areas; expanding powers and duties of the board of commissioners; providing for salary of board members; providing for budget hearings and tax levy made and adopted in accordance with general law; revising qualifications of a director; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motions by Senator Dantzler, by two-thirds vote—

HB 2565—A bill to be entitled An act relating to the Sebring Airport Authority, Highlands County; amending chapter 67-2070, Laws of Florida, as amended; allowing the authority to contract with and provide services to other governmental entities at other airports, airfields, and related facilities; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motions by Senator Childers, by two-thirds vote—

HB 2733—A bill to be entitled An act relating to Escambia County; repealing chapters 72-460 and 73-455, Laws of Florida, which provide for division of duties of the clerk of the circuit court and county court and the county comptroller and election, duties, and compensation thereof; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motions by Senator Bankhead, by two-thirds vote—

HB 2735—A bill to be entitled An act relating to the City of Jacksonville; amending s. 23.07 of art. 23 of chapter 92-341. Laws of Florida, being the charter of the City of Jacksonville; authorizing and approving the settlement of certain litigation relating to art 23 of the charter of the City of Jacksonville providing for an offsite commercial billboard ban; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motions by Senator Meadows, by two-thirds vote—

HB 2739—A bill to be entitled An act relating to Broward County; amending chapter 65-1541, Laws of Florida, relating to the Downtown Development Authority of the City of Fort Lauderdale; extending the date of expiration of the chapter; providing for notice of intent; providing severability; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SPECIAL ORDER, continued

On motion by Senator Kirkpatrick, by two-thirds vote **HB 2489** was withdrawn from the Committees on Higher Education; and Ways and Means.

On motion by Senator Kirkpatrick—

HB 2489—A bill to be entitled An act relating to undergraduate postsecondary education; providing intent language; amending s. 239.117, F.S.; requiring students enrolled in college-preparatory instruction to pay additional costs for continuous enrollment in class; amending s. 239.301, F.S.; limiting state funding for continuous enrollment in college-preparatory coursework; amending s. 240.117, F.S.; providing for the integration of additional skills into the common placement test; revising provisions relating to offering the common placement test; limiting concurrent coursework; requiring passage of the test; limiting state funding for continuous enrollment in college-preparatory coursework; amending s. 240.1201, F.S.; providing that certain members of the United States Armed Services be classified as residents for tuition purposes; providing qualifications; amending s. 240.311, F.S.; providing for rules relating to concurrent coursework; revising requirements of a report from each community college on progress towards meeting state and institutional quality goals; amending s. 240.321, F.S.; permitting other admission requirements to be established by the State Board of Community Colleges; amending s. 229.8075, F.S.; authorizing the Florida Education and Training Placement Information Program of the Department of Education to perform additional longitudinal analyses; amending s. 239.233, F.S.; directing the Department of Education to develop a system of performance measures for vocational and technical education programs; requiring the establishment of program standards and reports; providing for rulemaking; amending s. 239.249, F.S.; changing terminology related to vocational education; deleting a time limit placed upon an incentive award; deleting authority to credit certain placements and expenditures to the federal Job Training Partnership Act; revising guidelines for awards of funds for performance-based incentive funding; amending s. 240.331, F.S.; conforming provisions; 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; providing legislative intent; requiring review by the State Board of Community Colleges of chapter 228, 229, 235, 239, and 240, F.S., relating to community colleges, and other statute sections relating to licensure of occupations and educational requirements related thereto; repealing ss. 239.237 and 240.138, F.S., relating to a vocational and adult education equipment system and the reporting by universities and community colleges of foreign gifts; creating s. 242.621, F.S.; providing for an appropriation for the first accredited osteopathic medical school; creating s. 242.622, F.S.; providing for an appropriation for the first accredited podiatric medical school; directing that changes in terminology in the Florida Statutes be made; providing an effective date.

—a companion measure, was substituted for **SB 1962** and read the second time by title.

Senator Kirkpatrick moved the following amendment:

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

Section 1. It is the intent of the Legislature that students entering postsecondary education are adequately prepared to succeed in college-level coursework and perform at levels that support a natural progression from one performance level to another. The Legislature shows its commitment to this philosophy through its continued support of "Blueprint 2000," in which goal 2 addresses "Graduation Rate and Readiness for Postsecondary Education and Employment." The Legislature recognizes that "Blueprint 2000" further specifies that, by the year 2000, "students graduate and are prepared to enter the workforce and postsecondary education." Given the costs associated with remedial education for unprepared students, and the possibility of revenue restrictions in the future, it is the intent of the Legislature that remedial instruction at the postsecondary education level be reduced for returning students, and especially for first-time-in-postsecondary-education students, so that resources can be used to support other instructional activities. A reduction in the need for remedial education would benefit students by improving retention rates, reducing the time required for the completion of a postsecondary degree, and permitting an academic focus on skills and abilities needed for success in employment. Florida citizens, as taxpayers, would also benefit by a reduction in the need for the continued financial support of remedial education coursework that "reteaches" high school-level skills to students enrolled in postsecondary education.

Section 2. Paragraph (b) of subsection (5) of section 239.117, Florida Statutes, is amended to read:

239.117 Postsecondary student fees.—

(5)

(b) Students enrolled in college-preparatory instruction shall pay fees equal to the fees charged for college credit courses. *Students enrolled in the same college-preparatory skill area more than two times shall pay fees at 100 percent of the direct instructional cost; however, each community college shall have the authority to review and reduce such payment on an individual basis, contingent upon a student's financial hardship, pursuant to definitions and fee levels established by the State Board of Community Colleges.* Fee-nonexempt students enrolled in vocational preparatory instruction shall be charged fees equal to the fees charged for postsecondary adult vocational instruction. Each community college that conducts college-preparatory and vocational-preparatory instruction in the same class section may charge a single fee for both types of instruction.

Section 3. Paragraph (d) of subsection (5) of section 239.301, Florida Statutes, is amended to read:

239.301 Adult general education.—

(5)

(d) Expenditures for college-preparatory and lifelong learning students shall be reported separately. Allocations for college-preparatory courses shall be based on proportional full-time equivalent enrollment. Program review results shall be included in the determination of subsequent allocations. *A student shall be funded to enroll in the same college-preparatory skill area only twice, after which time no state funds shall be used to support the continuous enrollment of that student in the same class; however, each community college shall have the authority to review and reduce fees paid by students on an individual basis contingent upon the student's financial hardship, pursuant to definitions and fee levels established by the State Board of Community Colleges.* College-preparatory and lifelong learning courses do not generate credit toward an associate or baccalaureate degree.

Section 4. Subsections (2) and (3) and paragraph (a) of subsection (4) of section 240.117, Florida Statutes, are amended to read:

240.117 Common placement testing for public postsecondary education.—

(2) The common placement testing program shall include at a minimum the following: the capacity to diagnose basic competencies in the areas of English, reading, and mathematics which are essential to perform college-level work; *prerequisite skills that relate to progressively advanced instruction in mathematics, such as algebra and geometry; prerequisite skills that relate to progressively advanced instruction in language arts, such as English composition and literature;* prerequisite skills which relate to the College Level Academic Skills Test (CLAST); and provision of test information to students on the specific deficiencies.

(3) *By January 15, 1996,* the Articulation Coordinating Committee shall recommend *and* ~~to~~ the State Board of Education *shall adopt* rules which would *require high schools to offer students the opportunity to take the common placement test at the beginning*~~, on a voluntary basis, allow students to take the common test at the end~~ of the *tenth before enrollment in the* eleventh grade year in public high school for the purpose of obtaining remedial instruction prior to entering public postsecondary education.

(4)(a) Community college or state university students who have been identified as requiring additional preparation pursuant to subsection (1) shall enroll in college-preparatory adult education pursuant to s. 239.301 in community colleges to develop needed college-entry skills. These students shall be permitted to take courses *within their degree program* concurrently in other curriculum areas for which they are qualified while enrolled in college-preparatory instruction courses. *A student enrolled in a college preparatory course may concurrently enroll only in college credit courses that do not require the skills addressed in the college preparatory course. The State Board of Community Colleges shall specify the college credit courses that are acceptable for students enrolled in each college preparatory skill area, pursuant to s. 240.311(3)(q). A student who wishes to earn an associate in arts or a baccaulaureate degree, but who is required to complete a college preparatory course, must successfully complete the required college preparatory studies by the time the student has accumulated 12 hours of lower division college credit degree coursework; however, a student may continue enrollment in degree earning coursework provided the student maintains enrollment in college preparatory coursework for each subsequent semester until college preparatory coursework requirements are completed, and the student demonstrates satisfactory performance in degree earning coursework. A passing score on all subtests of the common placement test must be achieved before a student is considered to have met basic computation and communication skills requirements; however, no student shall be required to retake any subtest which was previously passed by said student. A student shall be funded to enroll in the same college-preparatory skill area only twice, after which time no state funds shall be used to support continuous enrollment of that student in the same class; however, each community college shall have the authority to review and reduce fees paid by students on an individual basis contingent upon the student's financial hardship, pursuant to definitions and fee levels established by the State Board of Community Colleges.* Credit awarded for college-preparatory instruction may not be counted towards fulfilling the number of credits required for a degree.

Section 5. Paragraph (a) of subsection (10) of section 240.1201, Florida Statutes, is amended, paragraphs (b) through (h) are redesignated as paragraphs (c) through (i), respectively, and a new paragraph (b) is added to said subsection to read:

240.1201 Determination of resident status for tuition purposes.—Students shall be classified as residents or nonresidents for the purpose of assessing tuition fees in public community colleges and universities.

(10) The following persons shall be classified as residents for tuition purposes:

(a) Active duty members of the armed services of the United States *residing or* stationed in this state, their spouses, and dependent children.

(b) Active duty members of the armed services of the United States and their spouses attending a public community college or university within 50 miles of the military establishment where they are stationed, if such military establishment is within a county contiguous to Florida.

Section 6. Paragraph (q) is added to subsection (3) of section 240.311, Florida Statutes, 1994 Supplement, to read:

240.311 State Board of Community Colleges; powers and duties.—

(3) The State Board of Community Colleges shall:

(q) Specify, by rule, the degree program courses that may be taken by students concurrently enrolled in college-preparatory instruction.

Section 7. Subsection (4) is added to section 229.8075, Florida Statutes, 1994 Supplement, to read:

229.8075 Florida Education and Training Placement Information Program.—

(4) The Florida Education and Training Placement Information Program may perform longitudinal analyses for all levels of education. These analyses must include employment stability, annual earnings, and relatedness of employment to education.

Section 8. Section 239.233, Florida Statutes, 1994 Supplement, is amended to read:

(Substantial rewording of section. See s. 239.233, F.S., for present text.)

239.233 Reporting requirements.—

(1)(a) The Department of Education shall develop a system of performance measures in order to evaluate the vocational and technical education programs as required in s. 239.229. This system must measure program enrollment, completion rates, placement rates, and amount of earnings at the time of placement. The State Board of Education shall adopt by rule the specific measures and any definitions needed to establish the system of performance measures.

(b) To measure and report program enrollment and completion rates, the Department of Education shall use data in the automated student data bases generated by the public schools and community colleges. To measure and report placement rates and amount of earnings at the time of placement, the department shall use data in the reports produced by the Florida Education and Training Placement Information Program as required in s. 229.8075. If any placement information is not available from the Florida Education and Training Placement Information Program, the school district or the community college may provide placement information collected by the school district or the community college. However, this supplemental information must be verifiable by the department and must not be commingled with the data base maintained by the Florida Education and Training Placement Information Program. The State Board of Education shall specify by rule the statistically valid, verifiable, uniform procedures by which school districts and community colleges may collect and report placement information to supplement the reports from the Florida Education and Training Placement Information Program.

(c) The State Board of Education shall adopt standards for the department, district school boards, and community college district boards of trustees to use in program planning, program review, and program evaluation. The standards must include, at a minimum, the completion rates, placement rates, and earnings from employment of former students of vocational and technical education programs.

(2) The State Board of Education shall adopt procedures for reviewing the vocational and technical education programs administered by the district school boards and the community college district boards of trustees when program performance falls below the standards required by this section.

(3) Annually the department shall compile the reports submitted in compliance with the rules adopted under this section and shall produce a statewide report that addresses the extent to which school districts and community colleges are meeting the standards established under paragraph (1)(c).

(4) The State Board of Education may adopt any other rules necessary to administer this section.

Section 9. Section 239.249, Florida Statutes, 1994 Supplement, is amended to read:

239.249 Voluntary, market-driven, performance-based incentive funding for *vocational and technical* ~~career~~ education programs.—

(1) The Legislature finds that education to prepare adults to enter specific occupations most benefits the state when the programs respond to the needs of business and industry, encourage economic development, improve the self-sufficiency of people who might otherwise require public assistance, or significantly increase the earning potential of state residents. It is the intent of the Legislature that funding methodologies be available to provide incentive awards to area technical centers and community colleges for meeting these goals. It is further the intent of the Legislature to direct and redirect funding to better prepare people to enter occupations that benefit robust new and emerging industries, and to increase the numbers of at-risk people who benefit from the programs.

(2) The Jobs and Education Partnership shall provide oversight and advice to improve the outcomes of *associate in science* degree ~~career~~ education and certificate *technical* ~~career~~ education provided by public school districts and community colleges. Annually, the partnership shall make recommendations to the State Board of Education and the Legislature regarding grant programs and funding incentives designed to improve *vocational and technical* ~~career~~ education programs.

(3) In any year in which the Legislature designates funds for performance-based incentive funding for *vocational and technical* ~~career~~ education programs provided by school districts or community colleges, the Division of Applied Technology and Adult Education and the Division of Community Colleges shall provide the Jobs and Education Partnership with recommended formulae, criteria, timeframes, and mechanisms for distributing funds. The partnership shall adopt a formula and advise the Division of Community Colleges and the Division of Applied Technology and Adult Education of the expected incentive award earnings of participating school districts or colleges. The partnership shall base these calculations on formulae that would provide incentive awards or grants for:

(a) Programs that prepare people to enter high-wage occupations identified by the Occupational Forecasting Conference created by s. 216.136 and other programs as approved by the Jobs and Education Partnership. Local school district superintendents, community college presidents, and private industry councils shall receive the Occupational Forecasting Conference results for their respective geographic areas to assess local applicability. At a minimum, performance incentives shall be calculated for people who complete programs that lead to specified high-wage employment and their placement in that employment. ~~Until July 1, 1995,~~ Leavers with marketable skills may also be calculated for the purposes of this paragraph. Baseline information for these calculations shall be based upon institutional information compiled by the Florida Education and Training Placement Information Program for the 1992-1993 school year. The baseline information calculated for the purposes of this paragraph shall be adjusted for a 3 percent annual increase in productivity beginning in 1995-1996.

(b) Programs that successfully prepare people who are eligible for public assistance, economically disadvantaged, disabled, not proficient in English, or dislocated workers for high-wage occupations. At a minimum, performance incentives shall be calculated for the enrollment of people identified in this paragraph, completion of such people, and placement of such people upon program completion. ~~Until July 1, 1995,~~ Leavers with marketable skills may also be calculated for the purposes of this paragraph. Baseline information for these calculations shall be based upon institutional information compiled by the Florida Education and Training Placement Information Program for the 1992-1993 school year. The baseline information calculated for the purposes of this paragraph shall be adjusted for a 3 percent annual increase in productivity beginning in 1995-1996.

(c) Programs identified by the Jobs and Education Partnership as increasing the effectiveness and cost-efficiency of education.

(4) The Legislature shall specify annually in the General Appropriations Act the percentage that is set aside from the Florida Education Finance Program and Community College Program Fund, respectively, for the purpose of providing incentive awards. Unless otherwise specified in the General Appropriations Act, the set-aside shall be no less than the amount specified in subsection (5). In implementing this section, funds set aside from the Florida Education Finance Program shall not be commingled with funds set aside from the Community College Program Fund.

(5) At least 60 percent of funds designated for performance-based incentive awards for public school district *technical* ~~vocational-technical~~ centers must be derived from a source other than the Florida Education Finance Program, and *at least* 60 percent of funds designated for such awards for community colleges shall be derived from a source other than the Community College Program Fund Calculations of program cost for appropriations purposes pursuant to s. 236 081 shall not include funds from sources other than the Florida Education Finance Program for the purposes of this section. Funds derived from sources other than the Florida Education Finance Program and Community College Program Fund shall not supplant current revenue levels appropriated through the General Revenue Fund or Educational Enhancement Trust Fund.

(6) If the Legislature appropriates funds for performance incentives from discretionary federal funds authorized in the Job Training Reform Amendments of 1992, Pub. L. No. 102-367, the Legislature and appropriate state and local agencies must ensure that:

(a) The total amount derived from those sources does not exceed $18 million annually.

(b) Any use of federal job training funds to implement this section does not prevent required formula-generated funds from passing through to local service delivery areas and private industry councils that provide services directly or through community-based organizations. This section must not interfere with federal requirements pertaining to local discretion and control.

(c) Participating community colleges, school districts, and private industry councils must collaborate to ensure that clients eligible under the Job Training Partnership Act receive the following services efficiently and without unwarranted duplication: education, training, intake, assessment, referral, counseling, support, case management, and placement.

~~(d) The method of accounting for funds must allow expenditures to be identified as Job Training Partnership Act expenditures, and placements to be identified as Job Training Partnership Act placements, when Job Training Partnership Act clients are served by participating school districts or community colleges.~~

(7) The Department of Education shall award 80 percent of funds derived from the Florida Education Finance Program and the Community College Program Fund and designated for performance-based incentive funding to participating institutions at the beginning of the fiscal year. ~~The award shall be based upon simulations that project the amount of award a program would receive if it maintained the high performance rate calculated for the previous year.~~ If a program ~~actually~~ earns more than *its allocation of incentive funds* ~~it received based upon the projection of its incentive earnings~~, the Department of Education must allocate to each participating institution its proportionate share of the remaining funds for that sector. Incentive funds awarded in excess of those set aside through the Florida Education Finance Program and Community College Program Fund shall be awarded at 2 times the value of those awarded through the set-aside. ~~If a participating institution performs at a lower rate than that calculated for the previous year, the Legislature shall deduct the amount of funds allocated for incentive awards from the Florida Education Finance Program or Community College Program Fund from the institution in the subsequent year appropriation.~~

(8) A school district or community college that earns an incentive award for its performance must use the money to benefit the *vocational and technical* ~~career~~ education programs it provides. The money may be used for equipment upgrades, program expansions, or any other use that would result in program improvement. The school board or community college board of trustees may not withhold any portion of the incentive earnings for indirect costs. Funds awarded pursuant to this section may be carried across fiscal years and shall not revert to any other fund maintained by the school board or community college board of trustees.

(9) A school district or community college may abstain from participation in the market-driven, performance-based incentive funding program. If a district or community college decides to terminate its participation, it must notify the Jobs and Education Partnership 3 years prior to that termination. This subsection may not be waived.

(10) The Department of Commerce shall administer the funds derived from sources other than the Community College Program Fund and the Florida Education Finance Program and shall distribute funds appropriated to participating colleges and school districts according to a formula adopted annually by the Jobs and Education Partnership. To allow time for documentation of program performance, funds allocated for the incentives must be carried forward to the next fiscal year and must be awarded to school districts and community colleges for their current year's performance, unless federal law requires the funds to revert at the year's end. The formula must provide consistency in giving awards to programs. Programs at a community college must not be held to a different standard from those at a school district, and programs at one school district or community college must not be held to a different standard from those of another.

(11) The Jobs and Education Partnership, upon the joint recommendation of local elected officials, a private industry council, and a participating local education agency, may expand the occupations that are included in the incentive funding program. Occupations so identified must meet needs created by local emergencies or plant closings.

(12) The Jobs and Education Partnership may add occupations to the list of recommendations produced by the Occupational Forecasting Conference if the Quick-Response Advisory Committee recommends them as emerging occupations according to s. 288.047.

(13) The Jobs and Education Partnership shall recommend rules necessary to implement this section to the State Board for *Vocational* ~~Career~~ Education.

Section 10. Paragraph (h) of subsection (3) of section 240.311, Florida Statutes, 1994 Supplement, is amended to read:

240.311 State Board of Community Colleges; powers and duties.—

(3) The State Board of Community Colleges shall:

(h) Establish an effective information system which will provide composite data about the community colleges and assure that special analyses and studies about the colleges are conducted, as necessary, for provision of accurate and cost-effective information about the colleges and about the community college system as a whole. ~~A component of this information system shall be an annual report from each community college to the State Board of Community Colleges on its progress towards meeting state and institutional quality goals. Such reports shall be based upon information from the prior academic year and shall contain:~~

~~1. An interpretation and analysis of student progress, including grade point average data and college level academic skills test information.~~

~~2. Followup information, including the success of graduates in upper-division university programs or placement rates of graduates in related employment fields.~~

~~3. Information on the needs of the community college and its students.~~

~~4. Information on college salaries and fringe benefits.~~

~~5. A report on college travel expenditures.~~

~~6. a report on the expenditure of funds raised by community college direct-support organizations. The annual report shall be submitted to the State Board of Community Colleges by November 1 each academic year, and it shall clearly show the progress in each area from one year to the next year. The report shall be reproduced and made available at the least possible cost and may be issued in a series or as part of existing college publications.~~

Section 11. Subsection (3) of section 240.331, Florida Statutes, is amended to read:

240.331 Community college direct-support organizations.—

(3) ANNUAL AUDIT.—Each direct-support organization shall make provisions for an annual postaudit of its financial accounts to be conducted by an independent certified public accountant in accordance with rules to be promulgated by the district board of trustees. The annual audit report shall be submitted to the Auditor General and the board of trustees for review. The board of trustees and the Auditor General shall have the authority to require and receive from the organization or from its independent auditor any detail or supplemental data relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be protected, and that anonymity shall be maintained in the auditor's report. All records of the organization, other than ~~the information necessary for the annual report required by s. 240.311(3)(h)6. and~~ the auditor's report, *any information necessary for the auditor's report, any information related to the expenditure of funds,* and *any* supplemental data requested by the board of trustees and the Auditor General, shall be confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 12. Subsection (2) of section 240.335, Florida Statutes, is amended to read:

240.335 Employment of community college personnel; discrimination in granting salary prohibited.—

(2) Each board of trustees shall undertake a program to eradicate any discrimination on the basis of gender, race, or physical handicap in the granting of salaries to employees ~~and shall report on or before March 15, 1983, and annually thereafter, the results of its program to the State Board of Community Colleges.~~

Section 13. Subsection (2) of section 240.347, Florida Statutes, is amended to read:

240.347 State Community College Program Fund.—

(2) Beginning with the 1985-1987 legislative budget request, the prior year's June 30 ~~salary rate and~~ adjusted expenditure data base for salaries and benefits shall be included in the budget request for the State Community College Program Fund within the following categories: "Instructional" with subcategories including "Faculty," "Nonfaculty," "Faculty Other Personal Services," and "Nonfaculty Other Personal Services"; and "Noninstructional" with subcategories including "Administrative," "Professional," "Nonprofessional," and "Noninstructional Other Personal Services." Within the foregoing categories and subcategories, the following shall be reported: salaries and employer contributions for retirement, social security, health insurance, life insurance, and other employer-paid personnel benefits.

Section 14. (1) Consistent with the goals of the Government Performance and Accountability Act, as created in chapter 94-249, Laws of Florida, and the goals of systemwide and institutional accountability, the Legislature finds that it is in the best interest of the students, faculty, parents, employers, and citizens of the State of Florida that a thorough and intensive cost benefit analysis of the Florida Statutes and related rules relating to community college education be conducted in order to produce maximum results with taxpayers' money. It is the intent of the Legislature that such an analysis result in providing the community college system with the flexibility to reduce, consolidate, or eliminate reporting requirements, rules, and mandates that hamper student and faculty success and productivity.

(2) The State Board of Community Colleges shall review chapters 228, 229, 235, 239, and 240, Florida Statutes, relating to community colleges, and other sections of the Florida Statutes relating to the licensure of occupations, and the educational requirements related to those occupations, and shall submit a report and recommendations to the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the Senate and the House of Representatives by December 1, 1995.

Section 15. Section 239.237, Florida Statutes, as created by chapter 92-136, Laws of Florida, and section 240.138, Florida Statutes, are hereby repealed.

Section 16. Paragraph (c) is added to subsection (2) of section 121.051, Florida Statutes, 1994 Supplement, to read:

121.051 Participation in the system.—

(2) OPTIONAL PARTICIPATION.—

(c) Employees of members of the State Community College System, as designated in s. 240.3031, who are members of the Regular Class of the Florida Retirement System and who comply with the criteria set forth in this paragraph and in s. 240.3195 may elect, in lieu of participating in the Florida Retirement System, to withdraw from the Florida Retirement System altogether and participate in a lifetime monthly annuity program, to be known as the State Community College System Optional Retirement Program, which may be provided by the employing agency under s. 240.3195. Pursuant thereto:

1. The cost to the employer for such annuity shall equal the normal cost portion of the employer retirement contribution which would be required if the employee were a member of the Regular Class, plus the portion of the contribution rate required by s. 112.363(8) that would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund, and less an amount approved by the employer to provide for the administration of the optional retirement program. The employer providing such annuity shall contribute an additional amount to the Florida Retirement System Trust Fund equal to the unfunded actuarial accrued liability portion of the Regular Class contribution rate.

2. The decision to participate in such an optional retirement program shall be irrevocable for as long as the employee holds a position eligible for participation. Any service creditable under the Florida Retirement System shall be retained after the member withdraws from the Florida Retirement System; however, additional service credit in the Florida Retirement System shall not be earned while a member of the optional retirement program.

3. Participation in an optional annuity program shall be limited to those employees who satisfy the following eligibility criteria:

a. The employee must be otherwise eligible for membership in the Regular Class of the Florida Retirement System, as provided in s. 121.021(11) and (12).

b. The employee must be employed in a full-time position classified in the Accounting Manual for Florida's Public Community Colleges as:

(I) Instructional; or

(II) Executive Management, Instructional Management, or Institutional Management, if a community college determines that recruiting to fill a vacancy in the position is to be conducted in the national or regional market, and:

(A) The duties and responsibilities of the position include either the formulation, interpretation, or implementation of policies; or

(B) The duties and responsibilities of the position include the performance of functions that are unique or specialized within higher education and that frequently involve the support of the mission of the community college.

c. The employee must be employed in a position not included in the Senior Management Service Class of the Florida Retirement system, as described in s. 121.055.

4. Participants in the program are subject to the same reemployment limitations, renewed membership provisions, and forfeiture provisions as are applicable to regular members of the Florida Retirement System under ss. 121.091(9), 121.122, and 121.091(5), respectively.

5. Eligible community college employees shall be compulsory members of the Florida Retirement System until, pursuant to the procedures set forth in s. 240.3195, the first day of the next full calendar month following the filing of both a written election to withdraw and a completed application for an individual contract or certificate with the program administrator and receipt of such election by the division.

Section 17. Paragraph (d) of subsection (6) of section 121.052, Florida Statutes, 1994 Supplement, is amended to read:

121.052 Membership class of elected state and county officers.—

(6) DUAL EMPLOYMENT.—A member may not participate in more than one state-administered retirement system, plan, or class of membership simultaneously. If an elected officer becomes dually employed, or if a member becomes dually employed as an elected officer, such officer shall have 6 months to elect membership from among the plans or classes for which he is eligible, as set forth in this subsection. Failure to make election during the prescribed period shall result in compulsory membership in the Elected State and County Officers' Class.

(d) A member of the State University System Optional Retirement Program, *the State Community College System Optional Retirement Program,* or the Senior Management Service Optional Annuity Program who becomes dually employed in an elected office eligible for the Elected State and County Officers' Class shall, within 6 months after assuming office, select membership in one of the following classes or plans. Failure to timely notify the administrator of such selection shall result in compulsory membership in the Elected State and County Officers' Class for the entire period of dual employment as an elected officer.

1. The Elected State and County Officers' Class.—If the participant elects membership in the Elected State and County Officers' Class, participation in the optional retirement program or the optional annuity program shall cease for the period of dual employment, and retirement contributions shall be paid as required only on the salary earned as a state or county elected officer. At retirement, the member's average final compensation under the Florida Retirement System shall be based only on the salary received as an employee in that position for such period including dual employment. When the member ceases to be a dually employed elected officer, he may, within 90 days, elect membership in the Florida Retirement System class for which he is eligible, except as provided in s. 121.051(1)(a) for members of a faculty practice plan, or may again become a participant in the optional retirement program or the optional annuity program for which he is eligible.

2. The State University System Optional Retirement Program, *the State Community College System Optional Retirement Program,* or the Senior Management System Optional Annuity Program.—If the participant elects to remain a member of the optional program, retirement contributions shall be paid as required only on the salary earned in the position eligible for the optional program selected. At retirement, his annuity shall include the contributions required only on the salary received for employment in the position eligible for the selected optional program for such period including dual employment.

3. The Regular Class.—If the participant elects membership in the Regular Class, participation in the optional retirement program or the optional annuity program shall cease for the period of dual employment and retirement contributions shall be paid as required on the total salary received for all employment. At retirement, his average final compensation under the Florida Retirement System shall be based on all salary reported for both positions during such period of dual employment. Membership in the optional program shall cease for as long as the officer remains an elected officer. When such member ceases to be a dually employed elected officer, he may, within 90 days, elect membership in the Florida Retirement System class for which he is eligible, except as provided in s. 121.051(1)(a) for members of a faculty practice plan, or again become a participant in the optional retirement program or the optional annuity program for which he is eligible.

Section 18. Paragraph (r) is added to subsection (3) of section 240.319, Florida Statutes, to read:

240.319 Community college district boards of trustees; duties and powers.—

(3) Such rules, procedures, and policies for the boards of trustees include, but are not limited to, the following:

(r) Each board of trustees is authorized to enter into contracts to provide a State Community College System Optional Retirement Program pursuant to s. 240.3195, and to enter into consortiums with other boards of trustees for this purpose.

Section 19. Section 240.3195, Florida Statutes, is created to read:

240.3195 State Community College System Optional Retirement Program.—Each community college may implement an optional retirement program, if such program is established therefor pursuant to s. 240.319(3)(r), under which annuity contracts providing retirement and death benefits may be purchased by, and on behalf of, eligible employees who participate in the program. Except as otherwise provided herein, this retirement program, which shall be known as the State Community College System Optional Retirement Program, may be implemented and administered only by an individual community college or by a consortium of community colleges.

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

(a) "Activation" means the date upon which an optional retirement program is first made available by the program administrator to eligible employees.

(b) "College" means public community colleges that are members of the State Community College System.

(c) "Division" means the Division of Retirement of the Department of Management Services.

(d) "Program administrator" means the individual college or consortium of colleges responsible for implementing and administering an optional retirement program.

(e) "Program participant" means an eligible employee who has elected to participate in an available optional retirement program as authorized by this section.

(2) Participation in the optional retirement program provided by this section is limited to employees who satisfy the criteria set forth in s. 121.051(2)(c).

(3)(a) With respect to any employee who is eligible to participate in the optional retirement program by reason of qualifying employment commencing before the program's activation:

1. The employee may elect to participate in the optional retirement program in lieu of participation in the Florida Retirement System. To become a program participant, the employee must file with the personnel officer of the college, within 60 days after the program's activation, both a written election on a form provided by the division and a completed application for an individual contract or certificate.

2. An employee's participation in the optional retirement program commences on the first day of the next full calendar month following the filing of the election and completed application with the program administrator and receipt of such election by the division. An employee's membership in the Florida Retirement System terminates on this same date.

3. Any such employee who fails to make an election to participate in the optional retirement program within 60 days after its activation has elected to retain membership in the Florida Retirement System.

(b) With respect to any employee who becomes eligible to participate in an optional retirement program by reason of qualifying employment commencing on or after the program's activation:

1. The employee may elect to participate in the optional retirement program in lieu of participation in the Florida Retirement System. To become a program participant, the employee must file with the personnel officer of the college, within 60 days after commencing qualifying employment, both a written election on a form provided by the division and a completed application for an individual contract or certificate.

2. An employee's participation in the optional retirement program commences on the first day of the next full calendar month following the filing of the election and completed application with the program administrator and receipt of such election by the division. An employee's membership in the Florida Retirement System terminates on this same date.

3. If the employee makes an election to participate in the optional retirement program before the community college submits its initial payroll for the employee, participation in the optional retirement program commences on the first date of employment.

4. Any such employee who fails to make an election to participate in the optional retirement program within 60 days after commencing qualifying employment has elected to retain membership in the Florida Retirement System.

(c) Any employee who, on or after an optional retirement program's activation, becomes eligible to participate in the program by reason of a change in status due to the subsequent designation of the employee's position as one of those referenced in subsection (2), or due to the employee's appointment, promotion, transfer, or reclassification to a position referenced in subsection (2), must be notified by the community college of the employee's eligibility to participate in the optional retirement program in lieu of participation in the Florida Retirement System. These eligible employees are subject to the provisions of paragraph (b) and may elect to participate in the optional retirement program in the same manner as those employees described in paragraph (b), except that the 60-day election period commences upon the date notice of eligibility is received by the employee.

(d) Program participants must be fully and immediately vested in the optional retirement program.

(e) The election by an eligible employee to participate in the optional retirement program is irrevocable for so long as the employee continues to meet the eligibility requirements set forth in this section and in s. 121.051(2)(c), except as provided in paragraph (i).

(f) If a program participant becomes ineligible to continue participating in the optional retirement program pursuant to the criteria referenced in subsection (2), the employee becomes a member of the Florida Retirement System if eligible. The college must notify the Division of Retirement of an employee's change in eligibility status within 30 days after the event that makes the employee ineligible to continue participation in the optional retirement program.

(g) An eligible employee who is a member of the Florida Retirement System at the time of election to participate in the optional retirement program retains all retirement service credit earned under the Florida Retirement System, at the rate earned. Additional service credit in the Florida Retirement System may not be earned while the employee participates in the optional retirement program, nor is the employee eligible for disability retirement under the Florida Retirement System.

(h) A program participant may not simultaneously participate in any other state-administered retirement system, plan or class.

(i) Except as provided in s. 121.052(6)(d), a program participant who is or who becomes dually employed in two or more positions covered by the Florida Retirement System, one of which is eligible for an optional retirement program pursuant to this section and one of which is not, is subject to the dual employment provisions of chapter 121.

(4)(a) Each college must contribute on behalf of each program participant an amount equal to the normal cost portion of the employer retirement contribution which would be required if the program participant were a member of the Regular Class of the Florida Retirement System as provided in s. 121.071, plus the portion of the contribution rate required in s. 112.363(8) that would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund, and less an amount approved by the community college to provide for the administration of the optional retirement program. Payment of this contribution must be made either directly by the community college or through the program administrator to the designated company contracting for payment of benefits to the program participant.

(b) Each community college must contribute on behalf of each program participant an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required if the program participant were a member of the Regular Class of the Florida Retirement System. Payment of this contribution must be made directly by the college to the division for deposit in the Florida Retirement System Trust Fund.

(c) Each program participant who has executed an annuity contract may contribute by way of salary reduction or deduction a percentage of the program participant's gross compensation, but this percentage may not exceed the corresponding percentage contributed by the community college to the optional retirement program. Payment of this contribution may be made either directly by the college or through the program administrator to the designated company contracting for payment of benefits to the program participant.

(d) Contributions to an optional retirement program by a college or a program participant are in addition to, and have no effect upon, contributions required now or in future by the Federal Social Security Act.

(5)(a) The benefits to be provided to program participants must be provided through individual contracts or group annuity contracts, which may be fixed, variable, or both. Each individual contract or certificate must state the type of annuity contract on its face page, and must include at least a statement of ownership, the contract benefits, annuity income options, limitations, expense charges, and surrender charges, if any.

(b) Benefits are payable under the optional retirement program to program participants or their beneficiaries, and the benefits must be paid only by the designated company in accordance with the terms of the annuity contracts applicable to the program participant, provided that benefits funded by employer contributions are payable only as a lifetime annuity to the program participant, except for:

1. A lump sum payment to the program participant's beneficiary or estate upon the death of the program participant; or

2. A cash-out of a de minimis account upon the request of a former program participant who has been terminated for a minimum of 6 months from the employment that caused the participant to be eligible for participation. A de minimis account is an account with a designated company containing employer contributions and accumulated earnings of not more than $3,500. The cash-out must be a complete liquidation of the account balance with that designated company and is subject to the provisions of the Internal Revenue Code.

(c) The benefits payable to any person under the optional retirement program, and any contribution accumulated under the program, are not subject to assignment, execution, attachment, or to any legal process whatsoever.

(6)(a) The optional retirement program authorized by this section must be implemented and administered by the program administrator under section 403(b) of the Internal Revenue Code. The program administrator has the express authority to contract with a third party to fulfill any of the program administrator's duties.

(b) The program administrator shall solicit competitive bids or issue a request for proposal and select no more than four companies from which annuity contracts may be purchased under the optional retirement program. In making these selections, the program administrator shall consider the following factors:

1. The financial soundness of the company.

2. The extent of the company's experience in providing annuity contracts to fund retirement programs.

3. The nature and extent of the rights and benefits provided to program participants in relation to the premiums paid.

4. The suitability of the rights and benefits provided to the needs of eligible employees and the interests of the college in the recruitment and retention of employees.

In lieu of soliciting competitive bids or issuing a request for proposals, the program administrator may authorize the purchase of annuity contracts under the optional retirement program from those companies currently selected by the Division of Retirement to offer such contracts through the State University System Optional Retirement Program, as set forth in s. 121.35.

(c) Optional retirement program annuity contracts must be approved in form and content by the program administrator in order to qualify. The program administrator may use the same annuity contracts currently used within the State University System Optional Retirement Program, as set forth in s. 121.35.

(d) The provision of each annuity contract applicable to a program participant must be contained in a written program description that includes a report of pertinent financial and actuarial information on the solvency and actuarial soundness of the program and the benefits applicable to the program participant. The company must furnish the description annually to the program administrator, and to each program participant upon commencement of participation in the program and annually thereafter.

(e) The program administrator must ensure that each program participant is provided annually with an accounting of the total contributions and the annual contributions made by and on the behalf of the program participant.

Section 20. Paragraph (q) of subsection (1) of section 246.041, Florida Statutes, 1994 Supplement, is amended to read:

246.041 Powers and duties of board.—

(1) The board shall:

(q) Annually review the accreditation standards of the Commission on Colleges of the Southern Association of Colleges and Schools, the Accrediting *Council* ~~Commission~~ for Independent Colleges and Schools ~~of the Career College Association~~ at the junior or senior college of business level, and the American Association of Bible Colleges, *the Transnational Association of Christian Colleges and Schools,* and, upon request, other Commission on Recognition of Postsecondary Accreditation and United States Department of Education recognized accrediting associations, to determine for each of these accrediting bodies the comparability of the accreditation standards with the minimum licensing requirements of the board.

Section 21. Section 246.085, Florida Statutes, 1994 Supplement, is amended to read:

246.085 Certificate of exemption.—

(1) As an alternative to applying for a license from the board, the following nonpublic colleges may apply for a certificate of exemption from the board:

(a) Colleges chartered in Florida and accredited by:

1. The Commission on Colleges of the Southern Association of Colleges and Schools;

2. The Accrediting *Council* ~~Commission~~ for Independent Colleges and Schools ~~of the Career College Association~~ at the junior or senior college of business level;

3. The American Association of Bible Colleges; ~~or~~

4. The Transnational Association of Christian Colleges and Schools; or

5.~~4.~~ An agency recognized by the Commission on Recognition of Postsecondary Accreditation to accredit professional degree programs above the baccalaureate level.

Each nonpublic college seeking exemption pursuant to this paragraph shall submit to the board a current catalog and a letter from the recognized accrediting agency by whom the college is accredited, confirming the current accredited status of the college.

(b) Colleges chartered in this state, the credits or degrees of which are accepted for credit by at least three colleges that are fully accredited by a member of the Commission on Recognition of Postsecondary Accreditation, which were exempt through this category of exemption prior to July 1, 1982, and which enroll no students who receive any state or federal financial aid for education. Each college seeking exemption pursuant to this paragraph shall submit to the board a current catalog and letters from the three colleges confirming acceptance of the credits.

(2) If the board determines that a nonpublic college meets the requirements of subsection (1), the board shall present the college with a certificate of exemption. Colleges which receive a certificate of exemption from the board are not required to apply for a license from the board.

(3) Any college which holds a certificate of exemption and which conducts any diploma program, as defined in s. 246.203, shall be subject to licensure of such diploma program by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools.

(4) Each certificate of exemption issued by the board shall be subject to an annual review by the board to determine if the college remains eligible for the exemption. Colleges which have applied for and received exemption under this section may remain in compliance for exemption by annually submitting evidence that the college remains in compliance with the provisions of subsection (1), the information required by s. 246.041(1)(n), and a current catalog. The burden of determining compliance shall rest with the board, and the board may make such further investigation and may require further evidence, in addition to the information submitted, as may be necessary in its judgment.

(5) Exemption applied for by any nonpublic college or granted by the board to any nonpublic college pursuant to subsection (1) may be denied, placed on probation, or revoked for repeated failure to comply with the provisions of ss. 246.011-246.151. The board shall adopt rules for these actions. Revocation or denial of exemption shall immediately bring the college under the requirements for licensure.

Section 22. Subsection (2) of section 240.147, Florida Statutes, 1994 Supplement, is amended to read:

240.147 Powers and duties of the commission.—The commission shall:

(2) Prepare and submit to the State Board of Education a master plan for postsecondary education. The plan shall include consideration of the promotion of quality, fundamental educational goals, programmatic access, needs for remedial education, regional and state economic development, international education programs, demographic patterns, student demand for programs, needs of particular subgroups of the population, implementation of innovative educational techniques and technology, and the requirements of the labor market. The capacity of existing programs, in both public and independent institutions, to respond to identified needs shall be evaluated, and a plan shall be developed to respond efficiently to unmet needs. *The master plan shall serve as the basis for the development of strategic plans by the Board of Regents, the State Board of Community Colleges, and the Independent Colleges and Universities of Florida. Development of the sector strategic plans shall be initiated following completion of the master plan to ensure coordination in addressing identified needs and strategies throughout postsecondary education.*

Section 23. Paragraphs (j) and (n) of subsection (3) of section 240.209, Florida Statutes, 1994 Supplement, are amended to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(j) After consultation with the university presidents, adopt a systemwide *strategic* ~~master~~ plan which specifies goals and objectives for the State University System. In developing this plan, the board shall consider the role of individual public and independent institutions within the state. The plan shall provide for the roles of the universities to be coordinated to best meet state needs and reflect cost-effective use of state resources. The *strategic* ~~master~~ plan shall clarify mission statements and identify degree programs to be offered at each university in accordance with the objectives provided herein. The systemwide *strategic* ~~master~~ plan shall be for a period of 5 years with modification of the program lists after 2 years. *Development of each 5-year plan shall be coordinated with and initiated subsequent to completion of the master plan specified in*

s. 240.147. The Board of Regents shall submit a report to the Speaker of the House of Representatives and the President of the Senate upon modification of the system plan.

(n) Seek the cooperation and advice of superintendents and board members of local school districts in the state in performing its duties and making its plans, studies, and recommendations. The systemwide and university *strategic* ~~master~~ plans shall specifically include programs and procedures for responding to the educational needs of teachers and students in the public schools of this state.

Section 24. Subsection (2) of section 240.2093, Florida Statutes, 1994 Supplement, is amended to read:

240.2093 Board of Regents; issuance of bonds pursuant to s. 11(e), Art. VII, State Constitution.—

(2) The Board of Regents may approve the issuance of revenue bonds or other forms of indebtedness by a direct-support organization when such revenue bonds or other forms of indebtedness are used to finance or refinance capital projects which are to provide facilities necessary and desirable to serve the needs and purposes of the university, as determined by the systemwide *strategic* ~~master~~ plan adopted by the Board of Regents, and when the project has been approved by the Legislature.

Section 25. Subsection (1) of section 240.214, Florida Statutes, 1994 Supplement, is amended to read:

240.214 State University System accountability process.—It is the intent of the Legislature that an accountability process be implemented which provides for the systematic, ongoing evaluation of quality and effectiveness in the State University System. It is further the intent of the Legislature that this accountability process monitor performance at the system level in each of the major areas of instruction, research, and public service, while recognizing the differing missions of each of the state universities. The accountability process shall provide for the adoption of systemwide performance standards and performance goals for each standard identified through a collaborative effort involving the State University System, the Legislature, and the Governor's Office. The accountability process shall result in an annual accountability report to the Legislature.

(1) The annual accountability report shall include goals and measurable objectives related to the systemwide *strategic* ~~master~~ plan pursuant to s. 240.209. The plan must include, at a minimum, objectives related to the following measures:

(a) Total student credit hours;

(b) Total number of contact hours of instruction produced by faculty, by institution, rank, and course level;

(c) Pass rates on professional licensure examinations, by institution;

(d) Institutional quality as assessed by followup, such as analyses of employment information on former students, national rankings, and surveys of alumni, parents, clients, and employers;

(e) Length of time and number of academic credits required to complete an academic degree, by institution and by degree;

(f) Enrollment, progression, retention, and graduation rates by race and gender;

(g) Student course demand;

(h) An analysis of administrative and support functions;

(i) Every 3 years, beginning 1995-1996, an analysis of the cumulative debt of students; and

(j) An evaluation of the production of classroom contact hours at each university in comparison to a standard of 12 contact hours per term or 32 contact hours per year for each full-time instructional position and the level of funding provided for instruction.

Section 26. Subsection (23) of section 240.227, Florida Statutes, is amended to read:

240.227 University presidents; powers and duties.—The president is the chief administrative officer of the university and is responsible for the operation and administration of the university. Each university president shall:

(23) Otherwise provide for the effective operation of the university in the achievement of the goals established for it in the *strategic* ~~master~~ plan adopted by the Board of Regents.

Section 27. Subsection (5) of section 240.299, Florida Statutes, 1994 Supplement, is amended to read:

240.299 Direct-support organizations; use of property; board of directors; audit; facilities.—

(5) FACILITIES.—In addition to issuance of indebtedness pursuant to s. 240.2093(2), each direct-support organization is authorized to enter into agreements to finance, design and construct, lease, lease-purchase, purchase, or operate facilities necessary and desirable to serve the needs and purposes of the university, as determined by the systemwide *strategic* ~~master~~ plan adopted by the Board of Regents, upon approval of such agreements by the Board of Regents and approval of the project by the Legislature Such agreements are subject to the provisions of s. 243.151.

Section 28. Section 240.6045, Florida Statutes, is created to read:

240.6045 Limited access competitive grant program.—

(1) There is established a limited access competitive grant program which shall be administered by the Department of Education. The purpose of the program shall be to provide enrollment opportunities for qualified applicants unable to obtain admission to selected state university limited access programs or equivalent academic tracks.

(2) The Postsecondary Education Planning Commission shall annually identify for the State Board of Education selected high priority employment fields, commonly referred to as limited access programs, which require a baccalaureate degree and for which one or more state universities have insufficient capacity to serve all qualified applicants.

(3) Program applicants shall be Florida residents, either community college graduates or state university students, who because of lack of space are denied admission to a state university program directly related to a high priority employment field identified by the State Board of Education.

(4) A limited access competitive grant may be awarded in a competitive grant which equals 50 percent of the cost to the state per academic year of funding an undergraduate student in public postsecondary education if the recipient chooses to enroll in a comparable program provided by an eligible independent college or university in Florida. Eligible independent institutions shall be designated by the Department of Education and shall be selected from among institutions accredited by the Commission on Colleges of the Southern Association of Colleges and Schools. Priority shall be given to state residents who graduate from a Florida high school or community college.

(5) The admissions and graduation requirements of the receiving independent college or university shall apply to the grant recipient.

(6) The State Board of Education shall adopt any rules necessary for the implementation of this grant program.

(7) The Postsecondary Education Planning Commission, in consultation with the Board of Regents, the State Board of Community Colleges, the Independent Colleges and Universities of Florida, and the State Board of Education, shall recommend to the Legislature an accountability process for the limited access competitive grant program. The process shall make use of existing information submitted by the respective system in conjunction with the establishment of the program. The process shall demonstrate an emphasis on assessment of the benefits and cost-effectiveness of the limited access competitive grant program in providing state residents with uninterrupted access to their major field of study leading to the successful completion of a baccalaureate degree in the shortest time possible. The Legislature shall provide oversight of this accountability process.

Section 29. Subsection (2) and paragraph (a) of subsection (5) of section 240.605, Florida Statutes, 1994 Supplement, are amended to read:

240.605 Florida resident access grants.—

(2) There is created the Florida Resident Access Grant *Trust* Fund to be administered by the Department of Education. The State Board of Education shall adopt rules for the administration of such fund. *Funds appropriated by the Legislature for Florida resident access grants shall be deposited in the Florida Resident Access Grant Trust Fund and shall*

be used for carrying out the purposes of this section. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain therein and shall be available for carrying out the purposes of this section and as otherwise provided by law.

(5)(a) Funding for the Florida resident access grant shall be based on a formula composed of planned enrollment and the state cost of funding undergraduate enrollment at public institutions pursuant to s. 240.271. However, the amount of the Florida resident access grant issued to a full-time student shall be *30 percent in 1996-1997, 35 percent in 1997-1998, and* ~~no more than~~ 40 percent *in 1998-1999 and thereafter* of the full cost to the state per academic year of an undergraduate student in public postsecondary education established pursuant to s. 240.209 or *an amount* as specified in the General Appropriations Act. The Florida resident access grant may be paid on a prorated basis in advance of the registration period. The department shall make such payments to the college or university in which the student is enrolled for credit to the student's account for payment of tuition and fees. Institutions shall certify to the department the amount of funds disbursed to each student and shall remit to the department any undisbursed advances or refunds within 60 days of the end of regular registration. Students shall not be eligible to receive the award for more than 9 semesters or 14 quarters, except as otherwise provided in s. 240.404(3).

Section 30. Subsections (1) and (2) of section 243.151, Florida Statutes, 1994 Supplement, are amended to read:

243.151 Lease agreements; land, facilities.—

(1) Each university is authorized to negotiate and, upon approval of the Board of Regents, enter into agreements to lease land under its jurisdiction to for-profit and nonprofit corporations, registered by the Secretary of State to do business in this state, for the purpose of erecting thereon facilities and accommodations necessary and desirable to serve the needs and purposes of the university, as determined by the systemwide *strategic* ~~master~~ plan adopted by the Board of Regents. Such agreement will be for a term not in excess of 99 years or the life expectancy of the permanent facilities constructed thereon, whichever is shorter, and shall include as a part of the consideration provisions for the eventual ownership of the completed facilities by the state. The Board of Trustees of the Internal Improvement Trust Fund upon request of the university shall lease any such property to the university for sublease as heretofore provided.

(2) Each university is authorized to enter into agreements with for-profit and nonprofit corporations, registered by the Secretary of State to do business in this state, whereby income-producing buildings, improvements, and facilities necessary and desirable to serve the needs and purposes of the university, as determined by the systemwide *strategic* ~~master~~ plan adopted by the Board of Regents, are acquired by purchase or lease-purchase by the university, upon approval of the Board of Regents and approval of the project by the Legislature. When such agreements provide for lease-purchase of facilities erected on land that is not under the jurisdiction of the university, the agreement shall include as a part of the consideration provisions for the eventual ownership of the land and facility by the state. Agreements for lease-purchase shall not exceed 30 years or the life expectancy of the permanent facility constructed, whichever is shorter. Notwithstanding the provisions of any other law, the Board of Regents may enter into an agreement for the lease-purchase of a facility under this section for a term greater than 1 year when such term has been approved by the Legislature as part of the project. Each university, upon approval of the Board of Regents, is authorized to use any auxiliary trust funds, available and not otherwise obligated, to pay rent to the owner should income from the facilities not be sufficient in any debt payment period. The trust funds used for payment of rent shall be reimbursed as soon as possible to the extent that income from the facilities exceeds the amount necessary for such debt payment.

Section 31. Subsection (2) of section 282.308, Florida Statutes, 1994 Supplement, is amended to read:

282.308 State University System information resources management plan.—

(2) The Chancellor of the State University System shall review, recommend modifications to, and approve each university plan and shall provide a copy of each university's approved plan and a copy of the approved State University System Strategic Information Resources Management Plan to the commission by May 1 of each even-numbered year. Such plans are not subject to approval by the commission, but shall support and further the goals and objectives of the *strategic* ~~master~~ plan required pursuant to s. 240.209(3)(j), the state agency strategic plan prepared by the Department of Education pursuant to s. 186.021, and the State Strategic Plan for Information Resources Management specified in s. 282.3061.

Section 32. Paragraph (a) of subsection (5) of section 471.015, Florida Statutes, 1994 Supplement, is amended to read:

471.015 Licensure.—

(5)(a) The board shall deem that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to part I of the engineering examination when such applicant:

1. Has held a valid professional engineer's registration in another state for 15 years and has had 20 years of continuous professional-level engineering experience; ~~or~~

2. Has received a doctorate degree in engineering *from a nationally accredited engineering degree program which is accredited by the Accreditation Board for Engineering Technology; or* ~~and has taught engineering full-time for at least 3 years, at the baccalaureate level or higher, following the receipt of that degree.~~

3. Has received a doctorate degree in engineering and has taught engineering full-time for at least 3 years, at the baccalaureate level or higher, after receiving that degree.

Section 33. (1) There is created the Certified Teacher-Aide Welfare Transition Program to provide education and employment for recipients of public assistance who are certified to work in schools that, because of the high proportion of economically disadvantaged children enrolled, are at risk of poor performance on traditional measures of achievement. The program is designed to enable such schools to increase the number of adults working with the school children. However, the increase in personnel working at certain schools is intended to supplement and not to supplant the school staff and should not affect current school board employment and staffing policies, including those contained in collective bargaining agreements. The program is intended to be supported by local, state, and federal program funds for which the participants may be eligible. Further, the program is designed to provide its participants not only with entry-level employment but also with a marketable credential, a career option, and encouragement to advance.

(2) The Commissioner of Education, the Executive Director of the State Board of Community Colleges, the Secretary of Health and Rehabilitative Services, and the Secretary of Labor and Employment Security have joint responsibility for planning and conducting the program.

(3) The agencies responsible may make recommendations to the State Board of Education and the Legislature if they find that implementation or operation of the program would benefit from the adoption or waiver of state or federal policy, rule, or law, including recommendations regarding program budgeting.

(4) By July 1, 1995, the agencies shall complete an implementation plan that addresses at least the following recommended components of the program:

(a) A method of selecting participants. The method must not duplicate services provided by those assigned by Project Independence to screen participants, but must assure that screening personnel are trained to identify recipients of public assistance whose personal aptitudes and motivation make them most likely to succeed in the program and advance in a career related to the school community.

(b) A budget for use of incentive funding to provide motivation to participants to succeed and excel. The budget for incentive funding includes:

1. Funds allocated by the Legislature directly for the program;

2. Funds that may be made available from the federal Job Training Partnership Act based on client eligibility or requested waivers to make the clients eligible;

3. Funds made available by implementation strategies that would make maximum use of work supplementation funds authorized by federal law;

4. Funds authorized by strategies to lengthen participants' eligibility for federal programs such as Medicaid, subsidized child care, and transportation.

Incentives may include a stipend during periods of college classroom training, a bonus and recognition for a high grade-point average, child-care and pre-kindergarten services for children of participants, and services to increase a participant's ability to advance to higher levels of employment. Nonfinancial incentives should include providing a mentor or tutor, and service incentives should continue and increase for any participant who plans to complete the baccalaureate degree and become a certified teacher. Services may be provided in accordance with family choice by community colleges and school district technical centers, through family-service centers and full-service schools, or under contract with providers through central agencies.

(5) The agencies shall select Department of Health and Rehabilitative Services districts to participate in the program. A district that wishes to participate must demonstrate that a district school board, a community college board of trustees, an economic services program administrator, and a private industry council are willing to coordinate to provide the educational program, support services, employment opportunities, and incentives required to fulfill the intent of this section.

(6)(a) A community college or school district technical center is eligible to participate if it provides a technical certificate program in Child Development Early Intervention as approved by the Jobs and Education Partnership and it is participating in the Performance Based Incentive Funding program authorized in s. 239.249, Florida Statutes. Priority programs provide an option and incentives to articulate with an associate in science degree program or a baccalaureate degree program.

(b) A participating educational agency may earn funds appropriated for performance-based incentive funding for successful outcomes of enrollment and placement of recipients of public assistance who are in the program. In addition, an educational agency is eligible for an incentive award determined by the Jobs and Education Partnership for each recipient of public assistance who successfully completes a program leading to the award of a General Education Development credential.

(c) Historically black colleges or universities that have established programs that serve recipients of Aid to Families with Dependent Children are eligible to participate in the Performance Based Incentive Funding Program and may earn an incentive award determined by the Jobs and Education Partnership for successful placement of program completers in jobs as teacher aides in at-risk schools.

(7)(a) A participating school district shall identify at-risk schools in which the program participants will work during the practicum part of their education. For purposes of this act, an at-risk school is a school with grades K-3 in which 50 percent or more of the students enrolled at the school are eligible for free lunches or reduced-price lunches. Priority schools are schools whose service zones include the participants' own communities.

(b) A participating school district may use funds appropriated by the Legislature from Job Training Partnership Act service delivery area allotments to provide at least 6 months of on-the-job training to participants in the Certified Teacher-Aide Welfare Transition Program. Participating school districts may also use funds provided by grant diversion of funds from Aid to Families with Dependent Children for the participants during the practicum portion of their training to earn the certificate required for their employment.

(8) The agencies shall give priority for funding to those programs that provide maximum security for the long-range employment and career opportunities of the program participants. Security is enhanced if employment is provided through a governmental or nongovernmental agency other than the school board, or if the plans assure in another way that the participants will supplement, rather than supplant, the work force available to the school board. It is the intent of the Legislature that, when a program participant succeeds in becoming a certified teacher aide after working successfully in a school during the practicum or on-the-job training supported by the program, the participant shall have the opportunity to continue in full-time employment at the school that provided the training or at another school in the district.

Section 34. An independent postsecondary school may participate in the Certified Teacher-Aide Welfare Transition Program and may receive incentives for successful performance from the Performance Based Incentive Funding Program if:

(1) The school is accredited by the Southern Association of Colleges and Schools and licensed by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools;

(2) The school serves recipients of Aid to Families with Dependent Children in a certified teacher-aide program;

(3) A participating school district recommends the school to the Jobs and Education Partnership; and

(4) The Jobs and Education Partnership approves.

Section 35. Paragraph (a) of subsection (3) of section 240.529, Florida Statutes, is amended to read:

240.529 Public accountability and state approval for teacher preparation programs.—

(3) INITIAL STATE PROGRAM APPROVAL.—

(a) A program approval process, based on standards adopted pursuant to subsection (2), shall be established for postsecondary teacher preparation programs. This program approval process shall be phased in according to timelines determined by the Department of Education and, by July 1, 1995, shall be fully implemented for all teacher preparation programs in the state. *Each program shall choose one of the following options:*

1. *An* ~~This~~ approval process *that incorporates* ~~for State University System teacher preparation programs shall incorporate~~ those provisions and requirements necessary for recognition by the National Council for the Accreditation of Teacher Education and *that provides* ~~shall provide~~ for joint accreditation and program approval review by the state and the National Council for the Accreditation of Teacher Education for those units seeking initial or continuing accreditation. The approval process shall be consistent with the intent set forth in subsection (1)*; or*~~.~~

2. *An alternative* ~~Nonpublic postsecondary teacher preparation institutions shall choose the approval process specified in subparagraph 1. or an alternate~~ program approval process developed by the department. This *alternative* ~~alternate~~ approval process shall be consistent with the intent set forth in subsection (1) and shall be based primarily upon significant, objective, and quantifiable graduate performance measures. This approval process shall not be based on National Council for the Accreditation of Teacher Education provisions and requirements.

For purposes of this section, *the term* "unit" is defined by the National Association for the Accreditation of Teacher Education and means the college, school, department, or other administrative body within the institution that is primarily responsible for the preparation of teachers and other professional education personnel. *The term* "program" is defined by the State Board of Education and means a set of courses, activities, or other experiences designed to help individuals develop the competencies required for a specified type of certification coverage.

Section 36. Subsection (4) of section 240.551, Florida Statutes, 1994 supplement, is amended to read:

240.551 Florida Prepaid Postsecondary Education Expense Program.—

(4) There is created within the State Board of Administration the Prepaid Postsecondary Education Expense Trust Fund. The fund shall consist of state appropriations, moneys acquired from other governmental or private sources, and moneys remitted in accordance with advance payment contracts. All funds deposited into the trust fund may be invested pursuant to s. 215.47; however, such investment shall not be mandatory. Dividends, interest, and gains accruing to the trust fund shall increase the total funds available for the program. *Notwithstanding the provisions of chapter 717, funds associated with contracts terminated pursuant to subsection (6)(d) and canceled contracts for which no refunds have been claimed shall increase the total funds available for the program. However, the board shall establish procedures for notifying purchasers who subsequently cancel their contracts of any unclaimed refund and shall establish a time period after which no refund may be claimed by a purchaser who canceled a contract.* Any balance contained within the fund at the end of a fiscal year shall remain therein and shall be available for carrying out the purposes of the program. In the event that dividends, interest, and gains exceeds the amount necessary for program administration and disbursements, the board may designate an additional percentage of the fund to serve as a contingency fund. Moneys

contained within the fund shall be exempt from the investment requirements of s. 18.10. Any funds of a direct-support organization created pursuant to paragraph (5)(j) shall be exempt from the provisions of this paragraph.

Section 37. Subsection (5) of section 242.65, Florida Statutes, is amended to read:

242.65 Florida School of the Arts.—

(5)~~(a)~~ The Council for the Florida School of the Arts shall be established to advise the community college district board of trustees on matters pertaining to the operation of the school. The council shall consist of *nine* ~~12~~ members, appointed by the Commissioner of Education for 4-year ~~staggered~~ terms. A member may serve *three* ~~two~~ terms *and may serve until replaced.*

~~(b) Paragraph (a) is repealed on October 1, 1994, and the Council for the Florida School of the Arts shall be reviewed by the Legislature pursuant to s. 11.611.~~

Section 38. Paragraph (a) of subsection (1) of section 240.402, Florida Statutes, 1994 Supplement, is amended to read:

240.402 Florida Undergraduate Scholars' Fund.—

(1) There is created a Florida Undergraduate Scholars' Fund, to be administered by the Department of Education. The department shall award scholarships to each Florida student who:

(a)1. Is recognized by the merit or achievement programs of the National Merit Scholarship Corporation as a scholar or finalist;

2. Has obtained a 3.5 unweighted grade point average on a 4.0 scale, or the equivalent, in high school subjects acceptable for credit toward a diploma and has *attained at least the minimum score as determined by rules of the Department of Education* ~~scored 1,200 or above~~ on the combined verbal and quantitative parts of the Scholastic Aptitude Test, *the Scholastic Assessment Test, or the recentered Scholastic Assessment Test* of the College Entrance Examination or an equivalent score on the American College Testing Program;

3. Has attended a home education program during grade levels 9 through 12 according to the provisions of s. 232.02(4) and has *attained at least the minimum score as determined by rules of the Department of Education* ~~scored 1,250 or above~~ on the combined verbal and quantitative parts of the Scholastic Aptitude Test, *the Scholastic Assessment Test, or the recentered Scholastic Assessment Test* of the College Entrance Examination or an equivalent score on the American College Testing Program;

4. Has been designated by the State Board of Education as a Florida Academic Scholar, pursuant to the provisions of s. 232.2465; or

5. Has been awarded an International Baccalaureate Diploma from the International Baccalaureate Office.

Section 39. Paragraph (e) of subsection (3) of section 240.4063, Florida Statutes, is amended to read:

240.4063 Florida Teacher Scholarship and Forgivable Loan Program.—

(3)

(e) *The State Board of Education shall adopt by rule repayment schedules and applicable interest rates under ss. 240.451 and 240.465.* A forgivable loan must be repaid within 10 years of completion of a program of studies.

1. Credit for repayment of an undergraduate or graduate forgivable loan shall be in an amount not to exceed $4,000 in loan principal plus applicable accrued interest for each full year of eligible teaching service. However, credit in an amount not to exceed $8,000 in loan principal plus applicable accrued interest shall be given for each full year of eligible teaching service completed at a high-density, low-economic urban school or at a low-density, low-economic rural school, as identified by the State Board of Education.

2. Any forgivable loan recipient who fails to teach in a public elementary or secondary school in this state as specified in this subsection is responsible for repaying the loan plus accrued interest at 8 percent annually. ~~Repayment schedules shall be determined by the Department of Education.~~

3. Forgivable loan recipients may receive loan repayment credit for teaching service rendered at any time during the *scheduled* ~~10-year~~ repayment period. However, such repayment credit shall be applicable only to the current principal and accrued interest balance that remains at the time the repayment credit is earned. No loan recipient shall be reimbursed for previous cash payments of principal and interest.

Section 40. Subsection (4) of section 240.6074, Florida Statutes, is amended to read:

240.6074 Critical Occupational Therapist or Physical Therapist Shortage Scholarship Loan Program.—

(4) *The State Board of Education shall adopt by rule repayment schedules and applicable interest rates under ss. 240.451 and 240.465.* A scholarship loan must be paid back within 10 years of completion of a program of studies.

(a) Credit for repayment of a scholarship loan shall be in an amount not to exceed $2,000 plus applicable accrued interest for each full year of employment by the public schools of this state.

(b) Any therapist or therapy assistant who fails to be employed by a public school in this state as specified in this subsection is responsible for repaying the loan plus interest ~~at prevailing rates~~. Repayment schedules and applicable interest rates shall be determined by the rules of the State Board of Education *under ss. 240.451 and 240.465.*

Section 41. Subsection (2) of section 239.217, Florida Statutes, is amended to read:

239.217 Florida Gold Seal Vocational Endorsement Program.—

(2) Each school district may award the Florida gold seal vocational endorsement to a high school student who meets the requirements of this section. To be eligible for award of the Florida gold seal vocational endorsement, a student must:

(a) Meet all requirements for graduation as specified in s. 232.246, including number of credits, courses, grade point average, and mastery of minimum performance standards and basic skills.

(b) Complete ~~a vocational job preparatory program pursuant to ss. 228.041 and 236.081, consisting of a minimum of~~ three *vocational* credits *in a sequential program of studies in a vocational job-preparatory or technology-education program. On-the-job training credit may not be substituted for the three vocational credits. Beginning in the 1997-1998 school year, a student must complete the secondary-school portion of a sequential program of studies which requires at least three secondary-school vocational credits and is continued in a planned, related postsecondary education program. If the student's school does not offer such a two-plus-two program, the student is eligible for a vocational endorsement if the student completes a job preparatory vocational education program selected by the Occupational Forecasting Conference or the Jobs and Education Partnership of Enterprise Florida for its ability to provide high-wage employment in an occupation with high potential for employment opportunities.*

(c) Demonstrate competency in a manner approved by the State Board of Education *in* ~~for vocational competencies related to the specific job preparatory program completed;~~ basic skills of reading, writing, and computation related to the occupation~~;~~ and general skills and knowledge related to employability.

(d) Earn a minimum cumulative unweighted grade point average of 3.0 on a 4.0 scale on all subjects required for a standard high school diploma.

(e) Earn a minimum unweighted grade point average of 3.5 on a 4.0 scale for secondary vocational courses *comprising the vocational program.*

If a student does not meet the requirements of this subsection as a result of inaccurate or incomplete information provided by a high school guidance counselor, teacher, or school district personnel, the student may, nevertheless, be eligible for the Florida gold seal vocational endorsement if the principal of the school or the district superintendent verifies that such inaccuracies or misinformation caused the deficiencies. The school district must provide a means for the student to correct deficiencies resulting from such misinformation. The student must correct the deficiencies no later than December 31 immediately following high school graduation, either by completing comparable work at the

postsecondary institution or by completing a directed individualized study program that is developed and administered by the school district. If the student does not complete the requirements necessary to correct the deficiencies by December 31 immediately following high school graduation, the student is ineligible to participate in the Florida Gold Seal Vocational Endorsement Program.

Section 42. Subsections (7) and (8) of section 240.498, Florida Statutes, 1994 Supplement, are amended to read:

240.498 Florida Education Fund.—

(7) It is the intent of the Legislature that the Board of Directors of the Florida Education Fund recruit eligible residents of the state before it extends its search to eligible nonresidents. *However, for the purposes of subsection (8), the board of directors shall recruit eligible residents only.* It is further the intent of the Legislature that the board of directors establish service terms, if any, that accompany the award of moneys from the fund.

(8) There is created a legal education component of the Florida Education Fund to provide the opportunity for *minorities* ~~minority groups~~ to attain representation within the legal profession proportionate to their representation within the general population. The legal education component of the Florida Education Fund *includes* ~~shall include~~ a law school program and a pre-law program.

(a) The law school scholarship program of the Florida Education Fund is to be administered by the Board of Directors of the Florida Education Fund for the purpose of increasing by 200 the number of minority students enrolled in ~~Florida~~ law schools *in this state*. Implementation of this program *is to* ~~shall~~ be phased in over a 3-year period.

1. The board of directors shall provide financial, academic, and other support to students selected for participation in this program from funds appropriated by the Legislature.

2. Student selection *must* ~~shall~~ be *made in accordance with rules adopted by the board of directors for that purpose and must be* based, *at least in part,* on an assessment of potential for success, merit, and financial need.

3. Support *must* ~~shall~~ be *made* available to students who enroll in private, as well as public, ~~Florida~~ law schools *in this state which are* accredited by the American Bar Association.

4. Scholarships *must* ~~shall~~ be paid directly to the participating students.

5. Students who participate in this program *must* ~~shall~~ agree in writing to sit for The Florida Bar examination and, upon successful admission to The Florida Bar, *to either* ~~shall~~ practice law in the state for a period of time equal to the amount of time for which the student received aid, up to 3 years, or repay the amount of aid received.

6. Annually the board of directors shall compile a report *that* ~~which~~ includes a description of the selection process, an analysis of the academic progress of all scholarship recipients, and an ~~expenditure~~ analysis *of expenditures*. This report *must* ~~shall~~ be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor.

(b) The minority pre-law scholarship loan program of the Florida Education Fund is to be administered by the Board of Directors of the Florida Education Fund for the purpose of increasing the opportunity of minority students to prepare for law school.

1. From funds appropriated by the Legislature, the board of directors shall provide for student fees, room, board, books, supplies, and academic and other support to selected minority undergraduate students matriculating at eligible public and independent colleges and universities in Florida.

2. Student selection *must* ~~shall~~ be *made in accordance with rules adopted by the board of directors for that purpose and must be* based, *at least in part,* on an assessment of potential for success, merit, and financial need.

3. To be eligible, a student *must* ~~shall~~ make a written agreement to enter or be accepted to enter a ~~Florida~~ law school *in this state* within 2 years *after* ~~of~~ graduation or repay the scholarship loan amount plus interest at the prevailing rate.

4. Recipients who fail to gain admission to a law school within the specified period of time, may, upon admission to law school, be eligible to have their loans canceled.

5. Minority pre-law scholarship loans shall be provided to 34 minority students per year for up to 4 years each, for a total of 136 scholarship loans. To continue receipt of scholarship loans, recipients must maintain a 2.75 grade point average for the freshman year and a 3.25 grade point average thereafter. Participants must also take specialized courses to enhance competencies in English and logic.

6. *The board of directors shall maintain* records on all scholarship loan recipients ~~shall be maintained by the board of directors~~. Participating institutions shall submit academic progress reports to the board of directors following each academic term. Annually, the board of directors shall compile a report *that* ~~which~~ includes a description of the selection process, an analysis of the academic progress of all scholarship loan recipients, and an ~~expenditure~~ analysis *of expenditures*. This report *must* ~~shall~~ be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor.

Section 43. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to education and training; providing intent language; amending s 239 117, F.S.; requiring students enrolled in college-preparatory instruction to pay additional costs for continuous enrollment in class; amending s 239.301, F.S.; limiting state funding for continuous enrollment in college-preparatory coursework; amending s. 240.117, F.S.; providing for the integration of additional skills into the common placement test; revising provisions relating to offering the common placement test; limiting concurrent coursework; requiring passage of the test; limiting state funding for continuous enrollment in college-preparatory coursework; amending s. 240.1201, F.S.; providing that certain members of the United States Armed Services be classified as residents for tuition purposes; providing qualifications; amending s. 240.311, F.S.; providing for rules relating to concurrent coursework; revising requirements of a report from each community college on progress towards meeting state and institutional quality goals; amending s. 240.321, F.S.; permitting other admission requirements to be established by the State Board of Community Colleges, amending s. 229.8075, F.S.; authorizing the Florida Education and Training Placement Information Program of the Department of Education to perform additional longitudinal analyses; amending s. 239.233, F.S.; directing the Department of Education to develop a system of performance measures for vocational and technical education programs; requiring the establishment of program standards and reports; providing for rulemaking; amending s. 239.249, F.S.; changing terminology related to vocational education; deleting a time limit placed upon an incentive award; deleting authority to credit certain placements and expenditures to the federal Job Training Partnership Act; revising guidelines for awards of funds for performance-based incentive funding; amending s. 240.311, F.S.; deleting powers of the State Board of Community Colleges; amending s. 240.331, F.S.; conforming provisions; amending s. 240.324, F.S.; authorizing one report to satisfy two requirements; 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; providing legislative intent; requiring review by the State Board of Community Colleges of chapter 228, 229, 235, 239, and 240, F.S., relating to community colleges, and other statute sections relating to licensure of occupations and educational requirements related thereto; repealing ss. 239.237 and 240.138, F.S., relating to a vocational and adult education equipment system and the reporting by universities and community colleges of foreign gifts; amending s. 240.324, F.S.; providing for accountability; amending s. 121.051, F.S.; authorizing certain community college employees to withdraw from the Florida Retirement System and join an optional retirement program; prescribing eligibility criteria for participation; providing for contributions; providing that the decision to withdraw shall be irrevocable; providing for service credit; providing limits; amending s. 121.052, F.S.; conforming a provision relating to employment in more than one state-administered system, plan, or class, to extend application of that provision to members of the optional retirement program; amending s. 240.319, F.S.; authorizing community college district boards of trustees to contract for provision of such optional retirement programs; creating s. 240.3195, F.S.; authorizing implementation of optional retirement programs for personnel occupying certain positions within the State

Community College System; providing definitions; providing procedures; providing limitations; providing for employer and employee contributions; providing for annuity contracts; providing for payment of benefits; protecting accumulated contributions from legal process; providing for administration; providing for selection of provider companies; providing for program description and annual accountings; amending s. 246.041, F.S., relating to an annual review of accreditation standards; amending s. 246.085, F.S.; authorizing additional nonpublic colleges to apply for a certificate of exemption from licensing requirements; correcting the title of an accrediting body; amending s. 240.147, F.S.; providing requirements relating to the master plan prepared by the Postsecondary Education Planning Commission; amending s. 240.209, F.S., relating to Board of Regents' duties; renaming the systemwide master plan as the systemwide strategic plan and providing requirements thereof; amending ss. 240.2093, 240.214, 240.227, 240.299, 243.151, and 282.308, F.S.; conforming provisions; creating s. 240.6045, F.S.; establishing a limited access competitive grant program; providing for identification of high priority employment fields; providing student eligibility; providing for award of grants; providing for rules; providing for an accountability process; amending s. 240.605, F.S., relating to Florida resident access grants; providing for a trust fund and specifying requirements thereof; revising provisions relating to the amount of grants; amending s. 471.015, F.S.; revising requirements relating to licensure by endorsement as an engineer; creating the Certified Teacher-Aide Welfare Transition Program to select and prepare recipients of public assistance to become certified in early-intervention child development and to become employed in certain elementary schools; recommending local, state, and federal funding sources; designating agency responsibility; providing authority for the agencies' recommendations; providing criteria for participation by historically black colleges, community colleges, and district school boards; requiring priorities for program planning and funding; providing for participation by an independent institution; amending s. 240.529, F.S.; authorizing public teacher preparation program recognition by the National Council for the Accreditation of Teacher Education to be optional; amending s. 240.551, F.S.; providing for funds associated with terminated and canceled contracts; providing for notification and cancellation procedures; amending s. 242.65, F.S.; revising the membership and terms of appointment of the Council for the Florida School of the Arts; amending s. 240.402, F.S.; authorizing the State Board of Education to specify by rule the minimum acceptable scores on certain tests required for a student to qualify for a scholarship from the Florida Undergraduate Scholars' Fund; amending ss. 240.4063, 240.6074, F.S.; directing the State Board of Education to specify by rule repayment terms for certain scholarship loans; deleting a requirement that loans must be repaid within 10 years; amending s. 239.217, F.S.; revising requirements for eligibility for the Florida gold seal vocational endorsement; providing for correction of deficiencies; amending s. 240.498, F.S.; requiring the adoption of rules by the Board of Directors of the Florida Education Fund for student selection in the law school and pre-law programs; providing an effective date.

Senator Kirkpatrick moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A (with Title Amendment)—On page 54, between lines 15 and 16, insert:

Section 39. Paragraph (a) of subsection (3) of section 240.529, Florida Statutes, is amended to read:

240.529 Public accountability and state approval for teacher preparation programs.—

(3) INITIAL STATE PROGRAM APPROVAL.—

(a) A program approval process, based on standards adopted pursuant to subsection (2), shall be established for postsecondary teacher preparation programs. This program approval process shall be phased in according to timelines determined by the Department of Education and, by July 1, 1995, shall be fully implemented for all teacher preparation programs in the state. *Each program shall choose one of the following options:*

1. *An* ~~This~~ approval process *that incorporates* ~~for State University System teacher preparation programs shall incorporate~~ those provisions and requirements necessary for recognition by the National Council for the Accreditation of Teacher Education and *that provides* ~~shall provide~~ for joint accreditation and program approval review by the state and the National Council for the Accreditation of Teacher Education for those units seeking initial or continuing accreditation. The approval process shall be consistent with the intent set forth in subsection (1)*; or.*

2. *An alternative* ~~Nonpublic postsecondary teacher preparation institutions shall choose the approval process specified in subparagraph 1. or an alternate~~ program approval process developed by the department. This *alternative* ~~alternate~~ approval process shall be consistent with the intent set forth in subsection (1) and shall be based primarily upon significant, objective, and quantifiable graduate performance measures. This approval process shall not be based on National Council for the Accreditation of Teacher Education provisions and requirements.

For purposes of this section, *the term* "unit" is defined by the National Association for the Accreditation of Teacher Education and means the college, school, department, or other administrative body within the institution that is primarily responsible for the preparation of teachers and other professional education personnel. *The term* "program" is defined by the State Board of Education and means a set of courses, activities, or other experiences designed to help individuals develop the competencies required for a specified type of certification coverage.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 59, line 19, after the semicolon (;) insert: amending s. 240.529, F.S.; authorizing public teacher preparation program recognition by the National Council for the Accreditation of Teacher Education to be optional;

Amendment 1 as amended was adopted.

On motion by Senator Kirkpatrick, by two-thirds vote **HB 2489** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—3

SB 2568—A bill to be entitled An act relating to direct-support organizations; amending s. 240.299, F.S., relating to the State University System; providing for reporting requirements; amending s. 240.331, F.S., relating to the State Community College System; providing membership on the board of directors and executive committee; providing for reporting requirements; amending s. 240.3315, F.S., relating to systemwide community college direct-support organizations; providing membership on the board of directors and executive committee; providing for reporting requirements; providing an effective date.

—was read the second time by title.

Senator Kurth moved the following amendment:

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

Section 1. Subsection (3) of section 240.299, Florida Statutes, 1994 Supplement, is amended, and subsection (6) is added to that section, to read:

240.299 Direct-support organizations; use of property; board of directors; audit; facilities*; budgets and reports.*—

(3) BOARD OF DIRECTORS.—The chairman of the Board of Regents may appoint a representative to the board of directors and the executive committee of any direct-support organization established under this section. The president of the university for which the direct-support organization is established, or *the president's* ~~his~~ designee, shall also serve on the board of directors and the executive committee of any direct-support organization established to benefit that university.

(6) ANNUAL BUDGETS AND REPORTS.—Each direct-support organization shall submit, to the university president and the Board of Regents, its federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt From Income Tax form (Form 990).

Section 2. Section 240.331, Florida Statutes, is amended to read:

240.331 Community college direct-support organizations.—

(1) DEFINITIONS.—For the purposes of this section:

(a) "Community college direct-support organization" means an organization *that* ~~which~~ is:

1. A Florida corporation not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State.

2. Organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to, or for the *direct* benefit of, a community college in this state. ~~The direct-support organization may, at the request of the district board of trustees, provide residency opportunities on or near the college campus for students. Community College Program Fund and Public Education Capital Outlay funds may not be used to construct, maintain, or operate such facilities.~~

3. An organization *that* ~~which~~ the board of trustees, after review, has certified to be operating in a manner consistent with the goals of the community college and in the best interest of the state. *An* ~~Any~~ organization *that* ~~which~~ is denied certification by the board of trustees *may* ~~shall~~ not use the name of the community college *that* ~~which~~ it serves.

(b) "Personal services" includes full-time or part-time personnel as well as payroll processing.

(2) BOARD OF DIRECTORS.—The chairperson of the board of trustees shall appoint a representative to the board of directors and the executive committee of each direct-support organization established under this section, including those established before July 1, 1995. The president of the community college for which the direct-support organization is established, or the president's designee, shall also serve on the board of directors and the executive committee of the direct-support organization, including any direct-support organization established before July 1, 1995.

(3)~~(2)~~ USE OF PROPERTY.—

(a) The board of trustees is authorized to permit the use of property, facilities, and personal services at any state community college by any community college direct-support organization, subject to the provisions of this section.

(b) The board of trustees is authorized to prescribe by rule any condition with which a community college direct-support organization must comply in order to use property, facilities, or personal services at any state community college.

(c) The board of trustees shall not permit the use of property, facilities, or personal services at any state community college by any community college direct-support organization *that* ~~which~~ does not provide equal employment opportunities to all persons regardless of race, color, national origin, sex, age, or religion.

(4) ACTIVITIES; RESTRICTIONS.—

(a) A direct-support organization may, at the request of the district board of trustees, provide residency opportunities near campus for students.

(b) A direct-support organization may use only private contributions to acquire or construct facilities and may not use Community College Program Fund or Public Education Capital Outlay funds to maintain or operate any facilities.

(c) A direct-support organization that acquires or constructs facilities for use by a community college or its students must comply with all requirements of this chapter relating to the acquisition or construction of facilities by a community college, including requirements for competitive bidding.

(d) Any transaction or agreement between one direct-support organization and another direct-support organization or between a direct-support organization and a center of technology innovation designated under s. 240.335 must be approved by the district board of trustees.

(5) ANNUAL BUDGETS AND REPORTS.—Each direct-support organization shall submit, to the board of trustees, its federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt From Income Tax form (Form 990). The board shall also submit each of these forms to the State Board of Community Colleges for review.

(6)~~(3)~~ ANNUAL AUDIT.—Each direct-support organization shall make provisions for an annual postaudit of its financial accounts to be conducted by an independent certified public accountant in accordance with rules to be promulgated by the district board of trustees. The annual audit report shall be submitted to the Auditor General, *the State Board of Community Colleges,* and the board of trustees for review. The board of trustees and the Auditor General shall have the authority to require and receive from the organization or from its independent auditor any detail or supplemental data relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be protected, and that anonymity shall be maintained in the auditor's report. All records of the organization, other than the information necessary for the annual report required by s. 240.311(3)(h)6. and the auditor's report and supplemental data requested by the board of trustees and the Auditor General, shall be confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 3. Section 240.3315, Florida Statutes is amended to read:

240.3315 Statewide community college direct-support organizations.—

(1) DEFINITIONS.—For the purposes of this section:

(a) "Statewide community college direct-support organization" means an organization *that* ~~which~~ is:

1. A Florida corporation not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State.

2. Organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to, or for the benefit of, the Community College System in this state.

3. An organization *that* ~~which~~ the State Board of Community Colleges, after review, has certified to be operating in a manner consistent with the goals of the Community College System and in the best interest of the state. Any organization *that* ~~which~~ is denied certification by the State Board of Community Colleges *may* ~~shall~~ not use the name of any community college.

(b) "Personal services" includes full-time or part-time personnel as well as payroll processing.

(2) BOARD OF DIRECTORS.—The chairperson of the State Board of Community Colleges may appoint a representative to the board of directors and the executive committee of any direct-support organization established under this section or s. 240.331. The chairperson of the State Board of Community Colleges, or the chairperson's designee, shall also serve on the board of directors and the executive committee of any direct-support organization established to benefit the State Community College System.

(3)~~(2)~~ USE OF PROPERTY.—

(a) The State Board of Community Colleges is authorized to permit the use of property, facilities, and personal services of the Division of Community Colleges by any statewide community college direct-support organization, subject to the provisions of this section.

(b) The State Board of Community Colleges is authorized to prescribe by rule any condition with which a statewide community college direct-support organization must comply in order to use property, facilities, or personal services of the Division of Community Colleges.

(c) The State Board of Community Colleges shall not permit the use of property, facilities, or personal services of the Division of Community Colleges by any statewide community college direct-support organization *that* ~~which~~ does not provide equal employment opportunities to all persons regardless of race, color, national origin, sex, age, or religion.

(4) RESTRICTIONS.—

(a) A direct-support organization established under this section may not use public funds to acquire, construct, maintain, or operate any facilities.

(b) Any transaction or agreement between a direct-support organization established under this section and any other direct-support organization or between a direct-support organization established under this section and a center of technology innovation designated under s. 240.3335 must be approved by the State Board of Community Colleges.

(5) ANNUAL BUDGETS AND REPORTS.—Each direct-support organization shall submit, to the State Board of Community Colleges, its federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt From Income Tax form (Form 990).

(6)~~(3)~~ ANNUAL AUDIT.—A statewide community college direct-support organization shall make provisions for an annual postaudit of its financial accounts to be conducted by an independent certified public accountant in accordance with rules to be adopted by the State Board of Community Colleges. The annual audit report shall be submitted to the Auditor General and the State Board of Community Colleges for review. The State Board of Community Colleges and the Auditor General shall have the authority to require and receive from the organization or from its independent auditor any detail or supplemental data relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be protected, and the anonymity shall be maintained in the auditor's report. All records of the organization, other than the information necessary for the annual report required by s. 240.311 and the auditor's report and supplemental data requested by the State Board of Community Colleges and the Auditor General, shall be confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 4. Subsection (7) of section 240.3335, Florida Statutes, 1994 Supplement, is amended to read:

240.3335 Centers of technology innovation.—

(7) Each center shall have a board of directors with at least five members who shall be appointed by the district board of trustees. The board of directors shall be responsible for overseeing the operation of the center, approval of the annual budget, and setting policy to guide the director in the operation of the center. ~~The board of directors shall have the authority to acquire, lease, and sublease property subject to the provisions of general law.~~ The board of directors shall consist of at least the following:

(a) The director of the center.

(b) The vice president of academic affairs, or the equivalent, of the community college.

(c) The vice president of business affairs, or the equivalent, of the community college.

(d) Two members designated by the president of the community college.

Section 5. Section 240.363, Florida Statutes, is amended to read:

240.363 Financial accounting and expenditures.—All funds accruing to ~~the benefit of~~ a community college *must* ~~shall~~ be received, accounted for, and expended in accordance with rules of the State Board of Community Colleges. *A community college may not transfer public funds or property to a direct-support organization or pledge public funds or property to pay or guarantee the payment of any bonds or other obligations issued by a direct-support organization or by a unit of local government on behalf of a direct-support organization*, except that each community college board of trustees may adopt policies that provide procedures for transferring ~~private contributions to the community college~~ to the direct-support organization of *that* ~~the~~ community college, for administration by such organization, *private contributions made to the community college.*

Section 6. (1) The Florida Commission on the Status of Women may authorize a direct-support organization to assist the commission in carrying out its purposes by raising money; submitting requests for and receiving grants from the Federal Government, the state or its political subdivisions, private foundations, and individuals; receiving, holding, investing, and administering property; and making expenditures to or for the benefit of the commission. The sole purpose of the direct-support organization is to support the commission. Such a direct-support organization is an organization that is:

(a) Incorporated under the provisions of chapter 617 and approved by the department as a Florida corporation not for profit;

(b) Organized and operated to receive, hold, invest, and administer property and to make expenditures to or for the benefit of the commission; and

(c) Approved by the commission and the department to be operating for the benefit of the commission and in the best interest of the state.

(2) The direct-support organization shall operate under written contract with the commission. The contract must provide for:

(a) Approval of the articles of incorporation and bylaws of the direct-support organization by the commission and the department.

(b) Submission of an annual budget for the approval of the commission. The budget must comply with rules adopted by the commission.

(c) Certification by the commission that the direct-support organization is complying with the terms of the contract and in a manner consistent with the goals and purposes of the commission and in the best interest of the state. Such certification must be made annually and reported in the official minutes of a meeting of the commission.

(d) The reversion to the commission, or the state if the commission ceases to exist, of moneys and property held in trust by the direct-support organization if it is no longer approved to operate for the commission or the commission ceases to exist.

(e) The fiscal year of the direct-support organization, which must begin July 1 of each year and end June 30 of the following year.

(f) The disclosure of material provisions of the contract and the distinction between the commission and the direct-support organization to donors of gifts, contributions, or bequests, as well as on all promotional and fundraising publications.

(3) The members of the direct-support organization's board of directors must include members of the commission.

(4) The commission may authorize a direct-support organization to use its property (except money), facilities, and personal services, subject to the provisions of this section. A direct-support organization that does not provide equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin may not use the property, facilities, or personal services of the commission. For the purposes of this subsection, the term "personal services" includes full-time personnel and part-time personnel as well as payroll processing.

(5) The commission shall adopt rules prescribing the procedures by which the direct-support organization is governed and any conditions with which a direct-support organization must comply to use property, facilities, or personal services of the commission.

(6) Any moneys, except moneys received from admissions to and rentals of facilities and properties managed by the commission, may be held in a separate depository account in the name of the direct-support organization and subject to the provisions of the contract with the commission. Such moneys may include membership fees, private donations, income derived from fundraising activities, and grants applied for and received by the direct-support organization. The commission may purchase plaques or other forms of award presentations for commission members and other volunteers who assist the commission. The commission shall have flexibility to pay for functions such as dinners or receptions to recognize honorees.

(7) The direct-support organization shall provide for an annual financial and compliance audit of its financial accounts and records by an independent certified public accountant in accordance with rules established by the commission. The annual audit report must be submitted to the commission for review and approval. Upon approval, the commission shall certify the audit report to the Auditor General for review.

Section 7. This act shall take effect July 1, 1995.

And the title is amended as follows:

Strike everything before the enacting clause and insert: A bill to be entitled An act relating to support organizations; amending s. 240.299, F.S.; providing reporting requirements for university direct-support organizations; amending s. 240.331, 240.3315, F.S.; prescribing membership of boards of directors and executive committees of community college direct-support organizations and statewide community college direct-support organizations; restricting activities of such direct-support organizations; providing reporting requirements for such organizations; amending s. 240.3335, F.S.; removing authority of a board of directors of a center of technology innovation to acquire, lease, or sublease property; amending s. 240.363, F.S.; prohibiting community colleges from using or pledging public funds or property to direct-support organizations; authorizing a direct-support organization for the Florida Commission on the Status of Women; providing an effective date.

On motion by Senator Kirkpatrick, further consideration of **SB 2568** with pending **Amendment 1** was deferred.

CS for SB 2642—A bill to be entitled An act relating to marine turtle nesting areas; amending s. 370.12, F.S.; directing the department to consider marine-turtle-nest-relocation programs when issuing permits for beach restoration, beach renourishment, or inlet-sand-transfer projects; limiting such consideration to the state's Atlantic coast; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **CS for SB 2642** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 2406—A bill to be entitled An act relating to school boards; amending s. 230.23, F.S.; requiring controls to ensure that payments from specific funds do not exceed total amounts budgeted in each fund; amending s. 237.02, F.S.; deleting provisions that authorize school boards to allow specific expenditures that exceed the amount budgeted in certain situations; providing an effective date.

—was read the second time by title.

Amendments were adopted to **SB 2406** to conform the bill to **CS for HB 1211**.

Pending further consideration of **SB 2406** as amended, on motion by Senator Gutman, by two-thirds vote **CS for HB 1211** was withdrawn from the Committees on Education; and Ways and Means.

On motion by Senator Gutman, the rules were waived and—

CS for HB 1211—A bill to be entitled An act relating to district school boards; amending s. 237.02, F.S.; revising provisions relating to school board expenditures; providing an effective date.

—a companion measure, was substituted for **SB 2406** and read the second time by title. On motion by Senator Gutman, by two-thirds vote **CS for HB 1211** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

SB 1350—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.091, F.S.; redefining who may be designated a member's joint annuitant; providing limits for benefits to a joint annuitant who is not the spouse of the member; providing a procedure under which cities and independent special districts may revoke their election to participate in the system; adjusting contribution rates for employers of system members to fund the changes made by this act; providing an effective date.

—was read the second time by title.

Amendments were adopted to **SB 1350** to conform the bill to **CS for HB 1505**.

Pending further consideration of **SB 1350** as amended, on motion by Senator Latvala, by two-thirds vote—

CS for HB 1505—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.021, F.S., redefining "dependent beneficiary" to clarify the definition and provide restrictions on receipt of benefits; amending s. 121.091, F.S.; redefining who may be designated a member's joint annuitant; providing special provisions for payment of certain survivor benefits to a joint annuitant; providing a procedure under which cities and independent special districts may revoke their election to participate in the system; adjusting contribution rates for employers of system members to fund the changes made by this act; providing an effective date.

—a companion measure, was substituted for **SB 1350** and by two-thirds vote read the second time by title. On motion by Senator Latvala, by two-thirds vote **CS for HB 1505** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Senate resumed consideration of—

HB 475—A bill to be entitled An act relating to the Parole Commission; amending ss. 947.04 and 947.22, F.S.; authorizing the chairman of the commission to appoint law enforcement officers and limiting their authority to matters over which the commission has jurisdiction; providing for a bond; providing an effective date.

—which had been considered this day.

Senator Turner moved the following amendments which were adopted:

Amendment 1—On page 2, line 22, strike "The Inspector General"

Amendment 2 (with Title Amendment)—On page 2, line 30, after the period (.) insert: *However, such officers are not eligible for membership in the special risk class of the Florida Retirement System under s. 121.0515.*

And the title is amended as follows:

In title, on page 1, line 7, after the semicolon (;) insert: excepting such officers from special risk eligibility;

Senator Jenne moved the following amendment which was adopted:

Amendment 3—On page 3, after line 2, insert:

Section 3. Section 409.9205, Florida Statutes, is created to read:

409.9205 Medicaid Fraud Control Unit; law enforcement officers.—All investigators employed by the Medicaid Fraud Control Unit who have been certified under s. 943.1395 are law enforcement officers of the state. Such investigators have the authority to conduct criminal investigations, bear arms, make arrests, and apply for, serve, and execute search warrants, arrest warrants and capias throughout the state pertaining to Medicaid Fraud as described in Chapter 409. However, such officers are not eligible for membership in the special risk class of the Florida Retirement System under s. 121.0515.

(Renumber subsequent section.)

Senator Turner moved the following amendment which was adopted:

Amendment 4—In title, on page 1, line 8, after the semicolon (;) insert: creating s. 409.9205, providing for law enforcement officer eligibility for certain employees in the Medicaid Fraud Control Unit

On motion by Senator Turner, by two-thirds vote **HB 475** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—4

RECESS

The President declared the Senate in recess at 8:00 p.m. to reconvene upon call of the President.

EVENING SESSION

The Senate was called to order by Senator Silver at 8:44 p.m. A quorum present—39:

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers	

SPECIAL ORDER, continued

On motion by Senator McKay, by two-thirds vote **HB 2597** was withdrawn from the Committee on Ways and Means.

On motion by Senator McKay—

HB 2597—A bill to be entitled An act relating to corporate income tax; amending s. 220.03, F.S.; updating references to the Internal Revenue Code for corporate income tax purposes; providing for retroactive effect; providing an effective date.

—a companion measure, was substituted for **SB 458** and read the second time by title. On motion by Senator McKay, by two-thirds vote **HB 2597** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—None

Consideration of **CS for SB 1044** was deferred.

On motion by Senator Dantzler, by two-thirds vote **HB 1645** was withdrawn from the Committees on Judiciary; and Ways and Means.

On motion by Senator Dantzler—

HB 1645—A bill to be entitled An act relating to vocational rehabilitation of persons with disabilities; amending s. 413.445, F.S.; revising guidelines for perfection of certain notices of liens for vocational and related services which are filed by the Division of Vocational Rehabilitation of the Department of Labor and Employment Security; providing an effective date.

—a companion measure, was substituted for **SB 1732** and read the second time by title. On motion by Senator Dantzler, by two-thirds vote **HB 1645** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—None

CS for SB 1044—A bill to be entitled An act relating to fines for county court facilities or crime prevention programs; creating s. 939.18, F.S.; providing for an additional assessment on persons pleading guilty or nolo contendere to, or found guilty of, a crime to be used to maintain court facilities and court expenses or county crime prevention programs; authorizing the creation of court facilities trust funds, special accounts, or county crime prevention trust funds by county commissioners; requiring clerks of court to remit any such assessments to the county in which the prosecution commenced; providing for investment of trust moneys by the clerk of the court; providing for the administration, supervision, and evaluation of the fund or account by the county commissioners; providing for expenditures from the fund or account; authorizing requirement of approval of the chief judge in the judicial circuit for appropriating moneys from a court facilities trust fund or special account; providing that trust funds established by ordinance prior to the effective date shall remain in effect; providing for three-fifths vote of the Legislature; providing an effective date.

—was read the second time by title.

One amendment was adopted to **CS for SB 1044** to conform the bill to **CS for CS for HB 539**.

Pending further consideration of **CS for SB 1044** as amended, on motion by Senator Dyer, by two-thirds vote **CS for CS for HB 539** was withdrawn from the Committees on Criminal Justice; Community Affairs; and Ways and Means.

On motion by Senator Dyer, the rules were waived and—

CS for CS for HB 539—A bill to be entitled An act relating to additional fines for county court facilities or crime prevention programs; amending s. 57.081, F.S.; requiring an indigent seeking a waiver of prepayment of costs to any judge, clerk, or sheriff to include in an affidavit a statement that the applicant has not paid more than a specified amount to another in connection with the legal proceeding; providing an alternative procedure; creating s. 939.18, F.S.; providing for an additional assessment on persons pleading guilty or nolo contendere to, or found guilty of, a crime to be used to maintain court facilities and court expenses or county crime prevention programs; requiring clerks of court to submit specified financial reports; providing that certain assessments established by ordinance prior to the effective date shall remain in effect; providing an effective date.

—a companion measure, was substituted for **CS for SB 1044** and read the second time by title.

On motion by Senator Dyer, further consideration of **CS for CS for HB 539** was deferred.

CS for SB 326—A bill to be entitled An act relating to the regulation of the practice of hypnosis; amending s. 456.32, F.S., relating to hypnosis; expanding the definition of the term "healing arts" to include the practice of psycology, clinical social work, marriage and family therapy, and mental health counseling; repealing s. 127, ch. 92-149, Laws of Florida; abrogating the repeal of ss. 490.0141, 491.0141, F.S., relating to the practice of hypnosis by psychologists and psychotherapists; providing an effective date.

—was read the second time by title.

Senator Gutman moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 1, strike line 28 and insert:

Section 3. Subsections (2) and (4) of section 490.003, Florida Statutes, 1994 Supplement, are amended, and subsection (7) is added to that section, to read:

490.003 Definitions.—

(2) "Board" means the Board of *Psychology* ~~Psychological Examiners~~.

(4) "Practice of psychology" means the observations, description, evaluation, interpretation, and modification of human behavior, by the use of scientific and applied psychological principles, methods, and procedures, for the purpose of describing, preventing, alleviating, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal behavioral health and mental or psychological health. The ethical practice of psychology includes, but is not limited to, psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning, including evaluation of mental competency to manage one's affairs and to participate in legal proceedings; counseling, psychoanalysis, all forms of psychotherapy, sex therapy, hypnosis, biofeedback, and behavioral analysis and therapy; psychoeducational evaluation, therapy, remediation, and consultation; and use of psychological methods to diagnose and treat mental, nervous, psychological, marital, or emotional disorders, illness, or disability, alcoholism and substance abuse, and disorders of habit or conduct, as well as the psychological aspects of physical illness, accident, injury, or disability, including neuropsychological evaluation, diagnosis, prognosis, etiology, and treatment.

(a) Psychological services may be rendered to individuals, couples, families, groups, and the public *without regard to place of service.*

(b) The use of specific modalities within the practice of psychology is restricted to psychologists appropriately trained in the use of such modalities.

(c) The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is requested or received for services rendered.

~~(d) The terms "diagnose" and "treat," as used in this subsection, when considered in isolation or in conjunction with any provision of the rules of the board, shall not be construed to permit the performance of any act which psychologists are not educated and trained to perform, including, but not limited to, prescribing medicinal drugs as defined in chapter 465, or authorizing clinical laboratory procedures pursuant to chapter 483, or radiological procedures, or use of electroconvulsive therapy. Furthermore, nothing in this subsection shall be construed as affecting the extension of hospital privileges to psychologists.~~

(7)(a) Prior to July 1, 1999, "doctoral-level psychological education" and "doctoral degree in psychology" mean a Psy.D., and Ed.D. in psychology, or a Ph.D. in psychology from:

1. An educational institution which, at the time the applicant was enrolled and graduated, had institutional accreditation from an agency recognized and approved by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and

2. A psychology program within that educational institution which, at the time the applicant was enrolled and graduated, had programmatic accreditation from an accrediting agency recognized and approved by the United States Department of Education or was comparable to such programs.

(b) Effective July 1, 1999, "doctoral-level psychological education" and "doctoral degree in psychology" mean a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from:

1. An educational institution which, at the time the applicant was enrolled and graduated, had institutional accreditation from an agency recognized and approved by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and

2. A psychology program within that educational institution which, at the time the applicant was enrolled and graduated, had programmatic accreditation from an agency recognized and approved by the United States Department of Education.

Section 4. Subsection (1) of section 490.004, Florida Statutes, 1994 Supplement, is amended to read:

490.004 Board of *Psychology* ~~Psychological Examiners~~.—

(1) There is created within the department the Board of *Psychology* ~~Psychological Examiners~~, composed of seven members appointed by the Governor and confirmed by the Senate.

Section 5. Section 490.005, Florida Statutes, 1994 Supplement, is amended to read:

490.005 Licensure by examination.—

(1) Any person desiring to be licensed as a psychologist shall apply to the department to take the licensure examination. The department shall license each applicant who the board certifies has:

(a) Completed the application form and remitted a nonrefundable application fee not to exceed *$500* ~~$250~~ and an examination fee set by the board sufficient to cover the actual per applicant cost to the department for development, purchase, and administration of the examination, but not to exceed $500.

(b) Submitted proof satisfactory to the board that *the applicant* ~~he~~ has:

1. Received *doctoral-level psychological education, as defined in s. 490.003(7)* ~~a doctoral degree with a major in psychology from a program which at the time the applicant was enrolled and graduated was accredited by the American Psychological Association~~;

~~2. Received a doctoral degree with a major in psychology from a program which at the time the applicant was enrolled and graduated maintained a standard of training comparable to the standards of training of those programs accredited by the American Psychological Association. Education and training in psychology must have been received in an institution of higher education fully accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation or an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada; or~~

2.~~3.~~ Received *the* ~~a degree~~ equivalent *of a doctoral-level psychological education, as defined in s. 490.003(7),* ~~to a doctoral degree in the United States with a major in psychology~~ from a program at a school or university located outside the United States of America and Canada, which *was* ~~program throughout the time the applicant was enrolled and at the time the applicant graduated maintained a standard of training substantially equivalent to the standards of training of those doctoral programs accredited by the American Psychological Association. Such foreign education and training in psychology must have been received in an institution or program of higher education~~ officially recognized by the government of the country in which it is located as an institution or program to train students to practice professional psychology. The burden of establishing that the requirements of this provision have been met shall be upon the applicant*; or*~~.~~

3. Received and submitted to the board, prior to July 1, 1999, certification of an augmented doctoral-level psychological education from the program director of a doctoral-level psychology program accredited by a programmatic agency recognized and approved by the United States Department of Education.

~~The board may certify an applicant for examination whose doctoral program met all the requirements of subparagraph 2. or subparagraph 3., with the exception of the requirements of substantial equivalence to those programs maintaining accreditation by the American Psychological Association, if the applicant's education has been augmented within a program meeting all the requirements of subparagraph 1. or subparagraph 2. The board shall develop by rule a procedure for an applicant to augment education which will ensure that the applicant is minimally competent to practice in this state.~~

(c) Had at least 2 years or 4,000 hours of experience in the field of psychology in association with or under the supervision of a licensed psychologist meeting the academic and experience requirements of this chapter or the equivalent as determined by the board. The experience requirement may be met by work performed on or off the premises of the supervising psychologist if the off-premises work is not the independent, private practice rendering of psychological services that does not have a psychologist as a member of the group actually rendering psychological services on the premises. ~~No more than 1 year of predoctoral experience may be utilized in satisfying the experience required.~~

(d) Passed the examination. However, an applicant who has obtained a passing score, as established by the board by rule, on the psychology licensure examination designated by the board as the national licensure examination~~,~~ need only pass the Florida law and rules portion of the examination.

(2) Any person desiring to be licensed as a school psychologist shall apply to the department to take the licensure examination. The department shall license each applicant who the department certifies has:

(a) Satisfactorily completed the application form and submitted a nonrefundable application fee not to exceed $250 and an examination fee sufficient to cover the per applicant cost to the department for development, purchase, and administration of the examination, but not to exceed $250 as set by department rule.

(b) Submitted satisfactory proof to the department that the applicant:

1. Has received a doctorate, specialist, or equivalent degree from a program primarily psychological in nature and has completed 60 semester hours or 90 quarter hours of graduate study, in areas related to school psychology as defined by rule of the department, from a college or university which at the time the applicant was enrolled and graduated was accredited by *an* ~~a regional~~ accrediting agency recognized *and approved* by the Commission on Recognition of Postsecondary Accreditation or an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada.

2. Has had a minimum of 3 years of experience in school psychology, 2 years of which must be supervised by an individual who *is a licensed school psychologist or who has otherwise qualified as a school psychologist supervisor, by* ~~has met the~~ education and experience, *as set forth by rule of the department* ~~requirements for licensure as a school psychologist under this chapter~~. A doctoral internship may be applied toward the supervision requirement.

3. Has passed an examination provided by the department.

Section 6. Subsection (1) of section 490.006, Florida Statutes, is amended to read:

490.006 Licensure by endorsement.—

(1) The department shall license a person as a psychologist or school psychologist who, upon applying to the department and remitting the appropriate fee, demonstrates to the department or, in the case of psychologists, to the board that *the applicant* ~~he~~:

(a) Holds a valid license or certificate in another state to practice psychology or school psychology, as applicable, provided that, when the applicant secured such license or certificate, the requirements were substantially equivalent to or more stringent than those set forth in this chapter *at that time; and, if no Florida law existed at that time, then the requirements in the other state must have been substantially equivalent to or more stringent than those set forth in this chapter at the present time*; or

(b) Is a diplomate in good standing ~~in the area of clinical psychology, clinical neuropsychology, counseling psychology, forensic psychology, or~~

~~school psychology~~ with the American Board of Professional Psychology, Inc.~~, provided that the requirements for granting diplomate status when the applicant was awarded his diploma were at least as stringent as the requirements in effect on October 1, 1989.~~

Section 7. Subsection (2) of section 490.0085, Florida Statutes, is amended to read:

490.0085 Continuing education; approval of providers, programs, and courses; proof of completion.—

(2) The department or, in the case of psychologists, the board has the authority to set a fee not to exceed $500 for each *applicant who applies for or renews* provider *status* ~~submitted for approval~~. Such fees shall be deposited into the *Health Care* ~~Professional Regulation~~ Trust Fund.

Section 8. Paragraph (e) of subsection (1) of section 490.009, Florida Statutes, is amended to read:

490.009 Discipline.—

(1) When the department or, in the case of psychologists, the board finds that an applicant or licensee whom it regulates under this chapter has committed any of the acts set forth in subsection (2), it may issue an order imposing one or more of the following penalties:

(e) Imposition of an administrative fine not to exceed *$5,000* ~~$1,000~~ for each count or separate offense.

Section 9. Subsection (1) of section 490.014, Florida Statutes, is amended to read:

490.014 Exemptions.—

(1)(a) No provision of this chapter shall be construed to limit the practice of physicians licensed pursuant to chapter 458 or chapter 459 so long as they do not ~~unlawfully~~ hold themselves out to the public as *psychologists* ~~possessing a license issued pursuant to this chapter~~ or use a professional title protected by this chapter.

(b) No provision of this chapter shall be construed to limit the practice of nursing, clinical social work, marriage and family therapy, mental health counseling, or other recognized businesses or professions, or to prevent qualified members of other professions from doing work of a nature consistent with their training, so long as they do not hold themselves out to the public as *psychologists* ~~possessing a license issued pursuant to this chapter~~ or use a title protected by this chapter. Nothing in this subsection shall be construed to exempt any person from the provisions of s. 490.012.

Section 10. Paragraph (c) of subsection (1), paragraph (b) of subsection (2), subsection (3), and paragraph (c) of subsection (4) of section 491.005, Florida Statutes, 1994 Supplement, are amended to read:

491.005 Licensure by examination.—

(1) Upon verification of documentation and payment of a fee not to exceed $200, as set by board rule, plus the actual per applicant cost to the department for purchase of the examination from the American Association of State Social Worker's Boards or a similar national organization, the department shall issue a license as a clinical social worker to an applicant who the board certifies:

(c) Has had at least 3 years of clinical social work experience, 2 years of which must be experience which took place subsequent to completion of a graduate degree in social work at an institution meeting the accreditation requirements of this section, under the supervision of a licensed clinical social worker or the equivalent *who is a qualified supervisor* as determined by the board. If the applicant's graduate program was not a program which emphasized direct clinical patient or client health care services as described in s. 491.003, the supervised experience requirement must take place after the applicant has completed a minimum of 15 semester hours or 22 quarter hours of the coursework required. A doctoral internship may be applied toward the supervision requirement. The experience requirement may be met by work performed on or off the premises of the supervising clinical social worker, provided the off-premises work is not the independent private practice rendering of clinical social work that does not have a licensed clinical social worker or the equivalent, as determined by the board, as a member of the group actually rendering services on the premises.

(2) The applicant's program shall be considered to be a program which emphasized direct clinical patient or client health care services if it included all of the following coursework:

(b)1. Completion of 24 semester hours or 37 quarter hours in theory of human behavior and practice methods as courses in clinically oriented services, including a minimum of one course in psychopathology *taken in a school of social work accredited by the Council on Social Work Education.* However, applicants who had completed the required graduate-level degree in social work prior to October 1, 1990, and who submit a completed application for licensure prior to January 1, 1993, shall be required to complete only 21 of the 24 required semester hours or 31 of the 37 required quarter hours in clinically oriented services. If the course title which appears on the applicant's transcript does not clearly identify the content of the coursework, the applicant shall be required to provide additional documentation, including, but not limited to, a syllabus or catalog description published for the course.

2. Notwithstanding the provisions of subparagraph 1., coursework which was taken at a baccalaureate level shall not be considered toward completion of education requirements for licensure unless an official of the graduate program certifies in writing on the graduate school's stationery that a specific course, which students enrolled in the same graduate program were ordinarily required to complete at the graduate level, was waived or exempted based on completion of a similar course at the baccalaureate level. If this condition is met, the board shall apply the baccalaureate course named toward the education requirements.

An applicant from a master's or doctoral program in social work which did not emphasize direct patient or client services may complete the clinical curriculum content requirement by returning to a graduate program accredited by the Council on Social Work Education or the Canadian Association of Schools of Social Work, or to a clinical social work graduate program with comparable standards, in order to complete the education requirements for examination. However, a maximum of 6 semester or 9 quarter hours of the clinical curriculum content requirement may be completed by credit awarded for independent study coursework as defined by board rule.

(3) Upon verification of documentation and payment of a fee not to exceed *$200* ~~$250~~, as set by board rule, *plus the actual cost to the department for the purchase of the examination from the Association of Marital and Family Therapy Regulatory Board, or similar national organization,* the department shall issue a license as a marriage and family therapist to an applicant who the board certifies:

(a) Has made application therefor and paid the appropriate fee.

(b) Has a minimum of a master's degree with major emphasis in marriage and family therapy, or a closely related field, and has completed all of the following requirements:

1. Twenty-seven semester hours or 41 quarter hours of graduate coursework, which must include a minimum of 2 semester hours or 3 quarter hours of graduate-level course credits in each of the following nine areas: dynamics of marriage and family systems; marriage therapy and counseling theory and techniques; family therapy and counseling theory and techniques; individual human development theories throughout the life cycle; personality theory; psychopathology; human sexuality theory and counseling techniques; general counseling theory and techniques; and psychosocial theory. Content may be combined, provided no more than two of the nine content areas are included in any one graduate-level course and the applicant can document that the equivalent of 2 semester hours of coursework was devoted to each content area. Courses in research, evaluation, appraisal, assessment, or testing theories and procedures; thesis or dissertation work; or practicums, internships, or fieldwork may not be applied toward this requirement.

2. A minimum of one graduate-level course of 2 semester hours or 3 quarter hours in legal, ethical, and professional standards issues in the practice of marriage and family therapy or a course determined by the board to be equivalent.

3. A minimum of one graduate-level course of 2 semester hours or 3 quarter hours in diagnosis, appraisal, assessment, and testing for individual or interpersonal disorder or dysfunction; and a minimum of one 2-semester-hour or 3-quarter-hour graduate-level course in behavioral research which focuses on the interpretation and application of research data as it applies to clinical practice. ~~Applicants who complete all coursework required prior to October 1, 1990, and who submit a completed~~

~~application for licensure prior to January 1, 1993, may substitute course content in research with documentation that no less than 10 classroom hours of coursework were devoted to research as described in this subparagraph.~~ Credit for thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

4. A minimum of one supervised clinical practicum, internship, or field experience in a marriage and family counseling setting, during which the student provided 180 direct client contact hours of marriage and family therapy services under the supervision of an individual who met the requirements for supervision under paragraph (c). This requirement may be met by a supervised practice experience which took place outside the academic arena, but which is certified as equivalent to a graduate-level practicum or internship program which required a minimum of 180 direct client contact hours of marriage and family therapy services currently offered within an academic program of a college or university accredited by an accrediting agency approved by the United States Department of Education, or an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada *or a training institution accredited by the Commission on Accreditation for Marriage and Family Therapy Education recognized by the United States Department of Education.* Certification shall be required from an official of such college, ~~or~~ university, *or training institution.*

The required master's degree ~~Except as provided in subparagraph 4., education and training in marriage and family therapy~~ must have been received in an institution of higher education which at the time the applicant graduated was: fully accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation; publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada; ~~or~~ an institution of higher education located outside the United States and Canada, which at the time the applicant was enrolled and at the time the applicant graduated maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation. Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as professional marriage and family therapists or psychotherapists. The burden of establishing that the requirements of this provision have been met shall be upon the applicant, and the board may require documentation, such as, but not limited to, an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country. *An applicant with a master's degree from a program which did not emphasize marriage and family therapy may complete the coursework requirement in a training institution fully accredited by the Commission on Accreditation for Marriage and Family Therapy Education recognized by the United States Department of Education.*

(c) Has had not less than 3 years of clinical experience during which 50 percent of the applicant's clients were receiving marriage and family therapy services, 2 years of which must be at the post-master's level under the supervision of a licensed marriage and family therapist with at least 5 years of experience, or the equivalent, *who is a qualified supervisor* as determined by the board. Within the 3 years of required experience for licensure as a marriage and family therapist, the applicant shall provide direct individual, group, or family therapy and counseling, to include the following categories of cases: unmarried dyads, married couples, separating and divorcing couples, and family groups including children. A doctoral internship may be applied toward the supervision requirement. The clinical experience requirement may be met by work performed on or off the premises of the supervising marriage and family therapist, provided the off-premises work is not the independent private practice rendering of marriage and family therapy services that does not have a licensed marriage and family therapist or the equivalent, as determined by the board, as a member of the group actually rendering services on the premises.

(d) Has passed an examination provided by the department for this purpose.

(4) Upon verification of documentation and payment of a fee not to exceed $200, as set by board rule, plus the actual per applicant cost to the department for purchase of the examination from the Professional Examination Service for the National Academy of Certified Clinical Mental Health Counselors or a similar national organization, the department shall issue a license as a mental health counselor to an applicant who the board certifies:

(c) Has had a minimum of 3 years' clinical experience in mental health counseling, 2 years of which must be at the post-master's level under the supervision of a licensed mental health counselor or the equivalent *who is a qualified supervisor* as determined by the board. A doctoral internship may be applied toward the supervision requirement. The clinical experience requirement may be met by work performed on or off the premises of the supervising mental health counselor, provided the off-premises work is not the independent private practice rendering of services that does not have a licensed mental health counselor or the equivalent, as determined by the board, as a member of the group actually rendering services on the premises.

Section 11. Section 491.0055, Florida Statutes, is created to read:

491.0055 Licensure as a mental health counselor under special conditions.—The department shall license as a mental health counselor, without examination, any person who between December 1, 1995, and February 28, 1996:

(1) Submits an application form created for, and limited to, the purpose of this section, which shall be made available by the department not later than November 1, 1995, and a nonrefundable application fee equal to the application fee required for licensure pursuant to s. 491.005(4).

(2) Submits documentation that the applicant has received a minimum of a master's degree with a major emphasis in psychology, counseling, or a related field from an institution licensed by the state in which it was located on the date of the granting of such degree and from which the applicant received personal instruction and was supervised by faculty provided for that purpose by the institution.

(3) Submits documentation that the applicant has completed at least 4 years' experience in the provision of psychological or counseling services as of the date of application for licensure under this section.

(4) Submits affirmation that the applicant is a member in good standing in the Florida Psychological Practitioners Association as of the date of such affirmation, occurring on or after October 1, 1995, and that the applicant was a member of such association on the date of entry of the Stipulated Order of Permanent Injunction entered by the United States District Court for the Middle District of Florida, in Abramson, et al., v. Gonzalez, et al., case number 81-735-CIV-ORL-19, August 26, 1992.

This section expires September 30, 1996. Such expiration shall not impair the rights of any applicant under this section whose timely application has not by that date received final action, inclusive of all appeal rights.

Section 12. Subsection (1) of section 491.006, Florida Statutes, is amended to read:

491.006 Licensure or certification by endorsement.—

(1) The department shall license or grant a certificate to a person in a profession regulated by this chapter who, upon applying to the department and remitting the appropriate fee, demonstrates to the board that he:

(a) Has demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

(b)~~(a)~~1. Holds an active valid license to practice and has actively practiced the profession for which licensure is applied in another state for 3 of the last 5 years immediately preceding licensure.

2. Meets the education ~~and experience~~ requirements of this chapter for the profession for which licensure is applied.

3. Has passed a substantially equivalent licensing examination in another state.

4. Holds a license in good standing, is not under investigation for an act which would constitute a violation of this chapter, and has not been found to have committed any act which would constitute a violation of this chapter.

~~5. Has passed the portion of the examination pertaining to the laws and rules of the State of Florida; or~~

~~(b) Has applied for a mental health counseling license and, during the period 1981-1989, was a member of a foreign Register of Clinical Health Service Providers in the Mental Health Field which requires a minimum of a master's degree and an experience requirement in a mental health field. This paragraph shall stand repealed October 1, 1992.~~

Section 13. Section 491.0065, Florida Statutes, is created to read:

491.0065 Requirement for instruction on human immunodeficiency virus and acquired immune deficiency syndrome.—The board shall require, as a condition of granting a license under this chapter, that an applicant making initial application for licensure complete an education course acceptable to the board on human immunodeficiency virus and acquired immune deficiency syndrome. An applicant who has not taken a course at the time of licensure shall, upon submission of an affidavit showing good cause, be allowed 6 months to complete this requirement.

Section 14. Subsection (2) of section 491.0085, Florida Statutes, is amended to read:

491.0085 Continuing education; approval of providers, programs, and courses; proof of completion.—

(2) The department or the board has the authority to set a fee not to exceed *$200* ~~$100~~ for each *applicant who applies for or renews* provider *status* ~~submitted for approval~~. Such fees shall be deposited into the *Health Care* ~~Professional Regulation~~ Trust Fund.

Section 15. Subsections (8) and (9) are added to section 491.014, Florida Statutes, to read:

491.014 Exemptions.—

(8) The exemptions contained in subsection (4) do not apply to any person licensed under this chapter whose license has been suspended or revoked by another jurisdiction.

(9) Nothing in this section shall be construed to exempt a person from meeting the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the person is not qualified by training or experience.

Section 16. Except as otherwise expressly provided in this act, this act shall take effect October 1, 1995.

And the title is amended as follows:

In title, on page 1, strike lines 2-4 and insert: An act relating to psychotherapy; amending s. 490.003, F.S.; revising the definitions of "board" and "practice of psychology"; providing a definition for "doctoral-level psychological education" and "doctoral degree in psychology"; amending s. 490.004, F.S.; renaming the Board of Psychological Examiners as the Board of Psychology; amending s. 490.005, F.S., relating to licensure of psychologists and school psychologists; increasing application fees; revising accreditation and other educational requirements; revising experience requirements; amending s. 490.006, F.S.; revising requirements for licensure by endorsement; amending s. 490.0085, F.S., relating to continuing education; providing fees for application for and renewal of provider status; providing for disposition thereof; amending s. 490.009, F.S.; increasing the administrative fine; amending s. 490.014, F.S.; revising an exemption relating to the use of the term "psychologist"; amending s. 491.005, F.S., relating to licensure by examination; revising coursework requirements applicable to applicants for licensure as clinical social workers; revising fees and costs applicable to applicants for licensure as marriage and family therapists; revising accreditation provisions relating to licensure as a marriage and family therapist or as a mental health counselor; revising supervision requirements; creating s. 491.0055, F.S.; providing for licensure of certain persons as mental health counselors under special conditions involving a district court order; providing for future repeal of the section; amending s. 491.006, F.S.; revising requirements and qualifications for licensure or certification by endorsement; creating s. 491.0065, F.S.; requiring instruction on human immunodeficiency virus and acquired immune deficiency syndrome as a condition of being granted a license under chapter 491, F.S., relating to clinical, counseling, and psychotherapy services; amending s. 491.0085, F.S., relating to continuing education; increasing fees for application for and renewal of provider status; providing for disposition thereof; amending s. 491.014, F.S.; clarifying applicability of exemptions; expanding the definition

On motion by Senator Gutman, by two-thirds vote **CS for SB 326** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34 Nays—None

On motion by Senator Crist, by two-thirds vote **CS for HB 229** was withdrawn from the Committees on Criminal Justice and Community Affairs.

On motion by Senator Crist—

CS for HB 229—A bill to be entitled An act relating to municipal law enforcement agencies; creating the "Officer Jeffery Tackett Law Enforcement Safety Act"; requiring specified municipal law enforcement agencies to establish a means to communicate with other law enforcement agencies and to request assistance; providing a legislative finding of an important state interest; amending s. 790.052, F.S.; permitting specified officers to carry a concealed firearm while off duty, under certain circumstances; limiting liability of an employing department or agency; providing an effective date.

—a companion measure, was substituted for **CS for SB 314** and read the second time by title. On motion by Senator Crist, by two-thirds vote **CS for HB 229** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

On motion by Senator Latvala, by two-thirds vote **HB 1761** was withdrawn from the Committees on Education; and Ways and Means.

On motion by Senator Latvala—

HB 1761—A bill to be entitled An act relating to education; amending s. 231.17, F.S.; requiring each applicant for a teaching certificate to demonstrate awareness of the instructional needs of students having limited proficiency in English and to employ teaching strategies to meet their needs; requiring the State Board of Education to adopt rules to implement these requirements; providing an effective date.

—a companion measure, was substituted for **SB 1340** and read the second time by title. On motion by Senator Latvala, by two-thirds vote **HB 1761** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Johnson, by two-thirds vote—

CS for HB 1797—A bill to be entitled An act relating to educational facilities; amending s. 235.002, F.S.; revising legislative intent with respect to the Educational Facilities Act; amending s. 235.19, F.S.; revising requirements for a school board in planning and selecting sites for educational facilities; providing that provisions of the section are not applicable to the Board of Regents; amending s. 235.193, F.S.; revising requirements for coordinating planning between school boards and local governing bodies; revising requirements for a school board in providing notice to the local governing body of a proposed acquisition or lease of educational facilities; providing development standards with respect to the expansion of a school site; creating s. 235.194, F.S.; requiring school boards to submit a general educational facilities report and an educational plan survey to local governments within the school district; amending s. 255.20, F.S.; providing an exception to the competitive selection process for construction or improvement of certain buildings; providing requirements; amending s. 235.26, F.S.; requiring the state Board of Education to propose amendments to the requirements for public shelters in the Uniform Building Code; exempting educational facilities in specified evacuation zones from requirements for public shelters; requiring the Department of Community Affairs to prepare a statewide emergency shelter plan; requiring the Advisory Council on Intergovernmental Relations to review certain exemptions from building codes, permits, and fees provided for the construction of educational facilities; amending s. 235.34, F.S.; authorizing a school board to expend funds for certain additional infrastructure; requiring a local government to assure that a board is reimbursed for infrastructure costs incurred by the board beyond its

proportionate share; amending s. 163.3174, F.S.; requiring local planning agencies to involve district and community college school boards in local planning; amending s. 163.3177, F.S.; requiring that the future land use element of a comprehensive plan include public schools as an allowable use by a specified date; reviving and readopting ss. 235.002, 235.19, 235.193, 235.26, 235.34, F.S., as amended, notwithstanding the repeal scheduled in ch. 85-116 and 86-1, Laws of Florida; amending s. 163.3180, F.S.; providing requirements for a local government that extends the concurrency requirement to public schools; providing a finding of important state interest; requiring the Board of Regents to name a certain performing arts center; requiring the Board of Regents to name a certain university conference center; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 544** and by two-thirds vote read the second time by title.

On motion by Senator Johnson, further consideration of **CS for HB 1797** was deferred.

Consideration of **SB 2242** was deferred.

SB 1390—A bill to be entitled An act relating to professions, occupations, and businesses; prohibiting a governmental entity from penalizing a person for violating specified regulations of which he had no knowledge; prohibiting a governmental entity from enforcing regulations applicable to professions, occupations, and businesses when specified conditions are met; providing a defense for enforcement actions in specified circumstances; providing an effective date.

—was read the second time by title.

The Committee on Governmental Reform and Oversight recommended the following amendment which was moved by Senator Ostalkiewicz:

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

Section 1. (1) It is the policy of the state that the purpose of regulation is to protect the public by attaining compliance with the policies established by the Legislature. Fines and other penalties may be provided in order to assure compliance; however, the collection of fines and the imposition of penalties are intended to be secondary to the primary goal of attaining compliance with an agency's rules. It is the intent of the Legislature that an agency charged with enforcing rules shall issue a notice of noncompliance as its first response to a minor violation of a rule in any instance in which it is reasonable to assume that the violator was unaware of the rule or unclear as to how to comply with it. A violation of a rule is a minor violation if it does not result in economic or physical harm to a person, or adversely affect the public's health, safety or welfare, or create a significant threat of such harm.

(2)(a) Each agency shall issue a notice of noncompliance as a response to a violation of any rule the violation of which would be a minor violation. A notice of noncompliance is a notification by the agency charged with enforcing the rule, issued to the person or business subject to the rule. A notice of noncompliance may not be accompanied with a fine or other disciplinary penalty. It must identify the specific rule that is being violated, provide information on how to comply with the rule, and specify a reasonable time for the violator to comply with the rule. A rule is agency action that regulates a business, occupation, or profession, or regulates a person operating a business, occupation, or profession, and which if not complied with, may result in a disciplinary penalty.

(b) Each agency shall review all of its rules and designate those for which a violation would be a minor violation, and for which a notice of noncompliance must be the first enforcement action taken against the person or business subject to regulation.

(c) The agency's review and designation must be completed by December 1, 1995, and each agency shall make a report to the Governor or the Governor and the Cabinet, as appropriate, by January 1, 1996, on which of its rules have been designated as rules the violation of which would be a minor violation.

(d) The Governor or the Governor and the Cabinet may evaluate the review and designation effects of each agency, and may apply a different designation than that applied by the agency.

(e) This section does not apply to the regulation of law enforcement personnel or teachers.

Section 2. Subsection (4) is added to section 455.211, Florida Statutes, 1994 Supplement, to read:

455.211 Board rules; final agency action; challenges.—

(4) All board rules or, where there is no board, department rules shall become effective on January 1, or July 1 of each year following the adoption of rule, whichever occurs first. Rules may be made effective on other dates only when good cause is shown by the department or board. Rules that do not establish a requirement for the violation of which penalties may be imposed are exempt from the provisions of this subsection and may be effective on the earliest date allowable under ch. 120.

Section 3. This act shall take effect July 1, 1995.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to state government; requiring agencies to designate rules the violation of which would be a minor violation; providing procedures to be followed by state agencies for enforcing regulations for minor violations; providing for a report to the Governor or Cabinet; authorizing the Governor or Cabinet to evaluate an agency's designation efforts and make different designations; amending s. 455.211, F.S.; providing effective date for rules adopted by boards within the Department of Business and Professional Regulation; providing an effective date.

Senator Ostalkiewicz moved the following substitute amendment which was adopted:

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

Section 1. (1) It is the policy of the state that the purpose of regulation is to protect the public by attaining compliance with the policies established by the Legislature. Fines and other penalties may be provided in order to assure compliance; however, the collection of fines and the imposition of penalties are intended to be secondary to the primary goal of attaining compliance with an agency's rules. It is the intent of the Legislature that an agency charged with enforcing rules shall issue a notice of noncompliance as its first response to a minor violation of a rule in any instance in which it is reasonable to assume that the violator was unaware of the rule or unclear as to how to comply with it.

(2)(a) Each agency shall issue a notice of noncompliance as a first response to a minor violation of a rule. A "notice of noncompliance" is a notification by the agency charged with enforcing the rule, issued to the person or business subject to the rule. A notice of noncompliance may not be accompanied with a fine or other disciplinary penalty. It must identify the specific rule that is being violated, provide information on how to comply with the rule, and specify a reasonable time for the violator to comply with the rule. A rule is agency action that regulates a business, occupation, or profession, or regulates a person operating a business, occupation, or profession, and that, if not complied with, may result in a disciplinary penalty.

(b) Each agency shall review all of its rules and designate those for which a violation would be a minor violation, and for which a notice of noncompliance must be the first enforcement action taken against a person or business subject to regulation. A violation of a rule is a minor violation if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm. If an agency under the direction of a cabinet officer mails to each licensee a notice of the designated rules at the time of licensure and at least annually thereafter, the provisions of paragraph (a) may be exercised at the discretion of the agency. Such notice shall include a subject-matter index of the rules and information on how the rules may be obtained.

(c) The agency's review and designation must be completed by December 1, 1995; each agency under the direction of the Governor shall make a report to the Governor, and each agency under the joint direction of the Governor and Cabinet shall report to the Governor and Cabinet, by January 1, 1996, on which of its rules have been designated as rules the violation of which would be a minor violation.

(d) The Governor or the Governor and Cabinet, as appropriate pursuant to paragraph (c), may evaluate the review and designation effects of each agency and may apply a different designation than that applied by the agency.

(e) This section does not apply to the regulation of law enforcement personnel or teachers.

(f) Designation pursuant to this section is not subject to challenge under chapter 120, Florida Statutes.

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

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to state government; requiring agencies to review rules and designate those the violation of which would be a minor violation; providing for reports to the Governor and the Cabinet; prescribing powers of an agency in enforcing minor violations; providing exceptions; providing for finality of agency actions; providing an effective date.

On motion by Senator Ostalkiewicz, by two-thirds vote **SB 1390** 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—1

On motion by Senator Ostalkiewicz, by two-thirds vote **HB 29** was withdrawn from the Committees on Governmental Reform and Oversight; Executive Business, Ethics and Elections; and Criminal Justice.

On motion by Senator Ostalkiewicz—

HB 29—A bill to be entitled An act relating to public meetings; amending s. 286.011, F.S., which requires that meetings of a board or commission of any state or local agency at which official acts are to be taken must be open to the public; requiring notice of such meetings; providing a penalty for conduct outside the state which constitutes a knowing violation of said section; amending s. 910.005, F.S.; providing state criminal jurisdiction for such conduct; creating s. 910.16, F.S.; providing venue for public meetings law violations; providing an effective date.

—a companion measure, was substituted for **SB 1484** and read the second time by title. On motion by Senator Ostalkiewicz, by two-thirds vote **HB 29** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29 Nays—2

CS for SB 2074—A bill to be entitled An act relating to domestic violence; amending s. 381.0038, F.S.; requiring the acquired immune deficiency syndrome program to contain certain additional information related to domestic violence; amending s. 415.603, F.S.; clarifying duties of the Department of Health and Rehabilitative Services with respect to domestic violence centers; requiring the department to promote involvement of certified domestic violence centers under certain circumstances; revising funding of a certain statewide association with respect to domestic violence; amending s. 415.605, F.S.; providing additional duties of domestic violence centers; creating s. 455.222, F.S.; requiring certain licensing boards to require special education on domestic violence for certain licensees; providing criteria; providing procedures; providing penalties; requiring certain licensing boards to report to the Legislature; amending s. 455.227, F.S.; providing for disciplining licensees for failing to comply with certain educational requirements related to domestic violence; amending s. 626.9541, F.S.; specifying that health insurers, life insurers or managed-care providers who engage in certain activities relating to domestic violence are engaging in an unfair practice or act; defining the term "abuse"; providing for award of attorney's fees and damages under certain circumstances; providing an effective date.

—was read the second time by title.

Senator Kurth moved the following amendments which were adopted:

Amendment 1—On page 7, strike line 17 and insert: *fact that an insured or applicant who is also the proposed insured has made a claim or sought*

Amendment 2—On page 7, line 23, through page 8, line 5, strike all of said lines and insert: *household member as defined in s. 741.30(1)(b). An insurer may refuse to underwrite, issue, or renew a policy based on the applicant's medical condition, but shall not consider whether such condition was caused by an act of abuse. For purposes of this section, the term "abuse" means the occurrence of one or more of the following acts:*

a. Attempting or committing assault, battery, sexual assault, or sexual battery;

b. Placing another in fear of imminent serious bodily injury by physical menace;

c. False imprisonment;

d. Physically or sexually abusing a minor child; or

e. An act of domestic violence as defined in s. 741.28.

On motion by Senator Kurth, by two-thirds vote **CS for SB 2074** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35 Nays—None

On motion by Senator Dyer, by two-thirds vote **HB 2213** was withdrawn from the Committees on Governmental Reform and Oversight; Commerce and Economic Opportunities; and Ways and Means.

On motion by Senator Dyer—

HB 2213—A bill to be entitled An act relating to state agency purchasing; amending s. 283.33, F.S.; requiring that certain printing contracts contain specific information; repealing s. 283.33(3), F.S., which requires that all printing contracts contain such information; amending s. 287.058, F.S., which provides requirements for contract documents for contractual services; revising the threshold amounts for such requirements; amending s. 287.084, F.S.; allowing state agencies to give preference to businesses in Florida under certain circumstances when awarding state contracts; amending s. 287.133, F.S.; removing a requirement that certain documentation relating to conviction of a public entity crime be submitted when contracting with public entities; requiring that certain information be included on invitations to bid, requests for proposals, and certain contracts; repealing s. 288.1168(2)(i), F.S., which requires an applicant for a professional golf hall of fame facility to file such documentation relating to conviction of a public entity crime; providing an effective date.

—a companion measure, was substituted for **SB 2250** and read the second time by title. On motion by Senator Dyer, by two-thirds vote **HB 2213** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—1

On motion by Senator Horne, by two-thirds vote **CS for HB 665** was withdrawn from the Committees on Health and Rehabilitative Services; and Ways and Means.

On motion by Senator Horne, the rules were waived and—

CS for HB 665—A bill to be entitled An act relating to developmental disabilities; amending s. 393.063, F.S.; providing that "Prader-Willi syndrome" is one of the disorders or syndromes to which a developmental disability may be attributed for the purposes of ch. 393, F.S.; defining the term "Prader-Willi syndrome" for the purposes of the law on developmental disabilities; amending s. 393.067, F.S.; delaying date of phase-out of unlicensed beds in developmental services institutions; providing for transfer of the Florida Developmental Disabilities Council to a private nonprofit corporation; providing for designation of such corporation by the Governor, consistent with federal law; providing for use of the state communications system; providing for insurance under the Division of Risk Management of the Department of Insurance; providing for state agency cooperation; requiring annual audits; specifying timeframe for fulfillment of legal conditions for the transfer; requiring that certain documents be made available; repealing s. 393.001, F.S., relating to the Florida Developmental Disabilities Council; providing an effective date.

—a companion measure, was substituted for **SB 466** and read the second time by title. On motion by Senator Horne, by two-thirds vote **CS for HB 665** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

THE PRESIDENT PRESIDING

The Senate resumed consideration of—

CS for HB 1797—A bill to be entitled An act relating to educational facilities; amending s. 235.002, F.S.; revising legislative intent with respect to the Educational Facilities Act; amending s. 235.19, F.S.; revising requirements for a school board in planning and selecting sites for educational facilities; providing that provisions of the section are not applicable to the Board of Regents; amending s. 235.193, F.S.; revising requirements for coordinating planning between school boards and local governing bodies; revising requirements for a school board in providing notice to the local governing body of a proposed acquisition or lease of educational facilities; providing development standards with respect to the expansion of a school site; creating s. 235.194, F.S.; requiring school boards to submit a general educational facilities report and an educational plan survey to local governments within the school district; amending s. 255.20, F.S.; providing an exception to the competitive selection process for construction or improvement of certain buildings; providing requirements; amending s. 235.26, F.S.; requiring the state Board of Education to propose amendments to the requirements for public shelters in the Uniform Building Code; exempting educational facilities in specified evacuation zones from requirements for public shelters; requiring the Department of Community Affairs to prepare a statewide emergency shelter plan; requiring the Advisory Council on Intergovernmental Relations to review certain exemptions from building codes, permits, and fees provided for the construction of educational facilities; amending s. 235.34, F.S.; authorizing a school board to expend funds for certain additional infrastructure; requiring a local government to assure that a board is reimbursed for infrastructure costs incurred by the board beyond its proportionate share; amending s. 163.3174, F.S.; requiring local planning agencies to involve district and community college school boards in local planning; amending s. 163.3177, F.S.; requiring that the future land use element of a comprehensive plan include public schools as an allowable use by a specified date; reviving and readopting ss. 235.002, 235.19, 235.193, 235.26, 235.34, F.S., as amended, notwithstanding the repeal scheduled in ch. 85-116 and 86-1, Laws of Florida; amending s. 163.3180, F.S.; providing requirements for a local government that extends the concurrency requirement to public schools; providing a finding of important state interest; requiring the Board of Regents to name a certain performing arts center; requiring the Board of Regents to name a certain university conference center; providing an effective date.

—which had been considered this day.

Senator Dudley moved the following amendment which was adopted:

Amendment 1—On page 25, line 25, strike the colon (:) and after "shall" insert: *comply with the following criteria for any proposed plan or plan amendment transmitted pursuant to s. 163.3184(3) after July 1, 1995:*

Senator Silver moved the following amendment which was adopted:

Amendment 2 (with Title Amendment)—On page 26, between lines 20 and 21, insert:

Section 16. The Board of Regents shall name the University Performing Arts Center on the Florida International University-University Park Campus as the "Herbert and Nicole Wertheim Performing Arts Campus" in honor of their generous contributions to the South Florida Community.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 2, line 30, after the semicolon (;) insert: directing the Board of Regents to name a building;

On motion by Senator Johnson, by two-thirds vote **CS for HB 1797** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

RECONSIDERATION

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

SB 352—A bill to be entitled An act for the relief of Robert Lee Wheeler; providing an appropriation to compensate him for attorney's fees and costs associated with his defense of a charge of improper conduct; providing an effective date.

—passed this day.

On motion by Senator Bankhead, by two-thirds vote **HB 205** was withdrawn from the Special Master; and the Committees on Judiciary; and Ways and Means.

On motion by Senator Bankhead, by two-thirds vote—

HB 205—A bill to be entitled An act for the relief of Robert Lee Wheeler; providing compensation to him for attorney's fees and costs associated with his defense of a charge of improper conduct; providing an effective date.

—a companion measure, was substituted for **SB 352** and read the second time by title. On motion by Senator Bankhead, by two-thirds vote **HB 205** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

On motion by Senator Jenne, by two-thirds vote **CS for HB 1501** was withdrawn from the Committees on Health Care; Judiciary; and Ways and Means.

On motion by Senator Jenne—

CS for HB 1501—A bill to be entitled An act relating to rural health networks; amending s. 381.0406, F.S.; modifying legislative findings and intent; modifying definitions; limiting liability of network directors, employees, and agents; modifying network services; providing that networks may become managed care providers or accountable health partnerships, under certain circumstances; providing for network infrastructure development; amending and renumbering s. 395.606, F.S., relating to rural health network cooperative agreements; modifying intent; providing for rules; providing an effective date.

—a companion measure, was substituted for **SB 2306** and read the second time by title. On motion by Senator Jenne, by two-thirds vote **CS for HB 1501** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for SB's 2944 and 2206—A bill to be entitled An act relating to corrections; amending s. 68.07, F.S.; prohibiting name change for petitioners with suspended civil rights; amending s. 95.11, F.S., relating to limitations on actions; prescribing a time limitation with respect to court actions by inmates challenging disciplinary proceedings conducted by the Department of Corrections; amending s. 112.19, F.S., relating to death benefits for law enforcement, correctional, and correctional probation officers; removing requirement that death must occur within a specified period as a condition for eligibility for benefits; adding provisions relating to death benefits for firefighters; amending ss. 112.08 and 175.201, F.S., to conform cross-references; amending s. 117.10, F.S.; providing that correctional probation officers are notaries public while on duty; amending s. 282.1095, F.S.; adding a sixth member to the Joint Task Force on State Agency Law Enforcement Communications; amending and renumbering s. 381.695, F.S.; correcting cross-references; amending s. 776.07, F.S.; redefining the term "guard" as "correctional officer"; amending s. 843.04, F.S.; redefining the term "guards" as "correctional officers"; amending s. 843.08, F.S.; providing that falsely personating an officer of the Department of Corrections or a correctional probation officer is a felony; amending s. 921.16, F.S.; providing for imposing a sentence concurrently with another jurisdiction; providing for the sheriff to forward commitment papers and other documents; providing for coterminous sentence with a sentence in another jurisdiction; providing for prevention of interference

with inmate program participation approved by another jurisdiction; amending s. 922.11, F.S.; redefining the term "guards" as "correctional officers"; amending s. 943.10, F.S.; defining the term "auxiliary correctional probation officer"; amending s. 943.1397, F.S.; providing for officer certification examination procedures; creating s. 944.06, F.S.; providing for reimbursing department employees for damage to personal vehicles; amending s. 944.39, F.S.; redefining the term "guard" as "correctional officer"; amending s. 944.095, F.S.; providing legislative intent for siting additional correctional facilities; deleting reference to obsolete study; amending s. 944.516, F.S.; providing for transfer of inmate fund balances of less than $1 to Inmate Welfare Trust Fund; amending s. 944.606, F.S.; authorizing public agencies to publicly release verified information about persons found to have committed a sexual offense; granting immunity from civil action to public agencies, officers, and employees who release verified information about persons found to have committed a sexual offense; amending s. 944.703, F.S.; providing for applicability of the Transition Assistance Release Program Act to all inmates released from the custody of the department; amending s. 944.704, F.S.; requiring the department to provide transition assistance officers at major correctional institutions; amending s. 944.706, F.S.; removing references to release assistance; providing for transition assistance; amending s. 944.707, F.S.; revising provisions relating to the provision to the Department of Labor and Employment Security of information on releasees; creating s. 945.03, F.S.; providing definitions; providing for the adoption of department rules prohibiting hiring of employee relatives; amending s. 945.091, F.S.; providing authorization to the secretary's designee for approval of extension of limits of confinement; creating s. 945.28, F.S.; requiring the department to provide public notice prior to the lease or purchase of probation or parole office space; providing for the inclusion of a telephone number so that the general public may communicate with the department with respect to the proposed lease or purchase; amending s. 945.31, F.S.; providing for the establishment of bank accounts for collecting and disbursing restitution and other court-ordered payments; amending s. 945.6037, F.S.; authorizing the department to waive an inmate's copayment for certain additional health care services; amending s. 946.006, F.S.; deleting an obsolete provision; providing for workers' compensation coverage of inmates in certain work programs to be provided by the private-sector employer; providing legislative intent with respect to prison industry programs; creating s. 946.41, F.S.; authorizing promotion to the public of inmate work programs; amending s. 946.515, F.S.; revising exemption provision with respect to state purchases of specified commodities or contractual services; amending s. 947.01, F.S.; decreasing the membership of the Parole Commission after a specified date; amending s. 947.141, F.S., relating to violations of conditional release, control release, or conditional medical release; authorizing the Parole Commission panel to place released offenders who commit such violations in local detention facilities as a condition of supervision; providing guidelines and time limits with respect to such placements; providing for specified reimbursements by the Department of Corrections pursuant to contractual agreement with the chief correctional officer of the county; providing applicability; amending s. 948.09, F.S.; providing for restitution payments by department of not less than $10; amending s. 948.15, F.S.; providing for probation services to be provided by entities under the supervision of the governing body of the county or the court; requiring certain entities that provide probation services to register with the governing body of the county; amending s. 951.12, F.S.; redefining the term "guard" as "correctional officer"; amending s. 951.19, F.S.; redefining the term "guards" as "correctional officers"; amending s. 951.23, F.S.; providing for collection of inmate information; providing for inmate immigration status information; amending s. 957.06, F.S.; prohibiting the department from delegating the authority to a contractor to determine the custody classification of an inmate; amending s. 958.11, F.S; providing circumstances under which the department may assign a youthful offender to a facility not designated for that offender; repealing s. 112.191, F.S., relating to death benefits for firefighters; repealing s. 950.051, F.S., relating to jail construction for purposes of gender separation of prisoners; repealing s. 950.07, F.S., relating to county appropriations for jail remodeling for such gender separation; repealing s. 950.08, F.S., relating to removal of county commissioners and sheriffs for refusal to comply with provisions for gender separation of prisoners; providing effective dates.

—was read the second time by title.

Senator Burt moved the following amendment:

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

Section 1. Paragraph (k) is added to subsection (2) of section 68.07, Florida Statutes, 1994 Supplement, to read:

68.07 Change of name.—

(2) The petition shall be verified and show:

(k) That the petitioner's civil rights have never been suspended, or if the petitioner's civil rights have been suspended, that full restoration of civil rights has occurred.

Section 2. Subsection (8) is added to section 95.11, Florida Statutes, to read:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

(8) WITHIN 30 DAYS FOR ACTIONS CHALLENGING CORRECTIONAL DISCIPLINARY PROCEEDINGS.—Any court action challenging prisoner disciplinary proceedings conducted by the Department of Corrections pursuant to s. 944.28(2) must be commenced within 30 days after final disposition of the prisoner disciplinary proceedings through the administrative grievance process under chapter 33, Florida Administrative Code. Any action challenging prisoner disciplinary proceedings shall be barred by the court unless it is commenced within the time period provided by this section.

Section 3. Paragraphs (a) and (c) of subsection (2) of section 112.19, Florida Statutes, 1994 Supplement, are amended to read:

112.19 Law enforcement, correctional, and correctional probation officers; death benefits.—

(2)(a) The sum of $25,000 shall be paid as provided in this section when a law enforcement, correctional, or correctional probation officer, while engaged in the performance of his law enforcement duties, is accidentally killed or receives accidental bodily injury which results in the loss of his life ~~within 1 year~~, provided that such killing is not the result of suicide and that such bodily injury is not intentionally self-inflicted.

(c) If a law enforcement, correctional, or correctional probation officer, while engaged in the performance of his law enforcement duties, is unlawfully and intentionally killed or dies ~~within 1 year~~ as a result of such unlawful and intentional act, the sum of $75,000 shall be paid as provided in this section.

Section 4. Section 117.10, Florida Statutes, is amended to read:

117.10 Law enforcement officers and correctional officers.—Law enforcement officers, ~~and~~ correctional officers, *and correctional probation officers,* as defined in s. 943.10, traffic accident investigation officers, as described in s. 316.640, and traffic infraction enforcement officers as described in s. 318.141, are notaries public when engaged in the performance of official duties. Sections 117.01, 117.04, 117.05, and 117.103 do not apply to the provisions of this section. An officer may not notarize his own signature.

Section 5. Paragraph (a) of subsection (2) of section 282.1095, Florida Statutes, 1994 Supplement, is amended to read:

282.1095 Mutual aid channel.—

(2)(a) The Joint Task Force on State Agency Law Enforcement Communications shall consist of *six* ~~five~~ members, as follows:

1. A representative of the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation who shall be appointed by the secretary of the department.

2. A representative of the Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles who shall be appointed by the executive director of the department.

3. A representative of the Department of Law Enforcement who shall be appointed by the executive director of the department.

4. A representative of the Game and Fresh Water Fish Commission who shall be appointed by the executive director of the commission.

5. A representative of the Division of Law Enforcement of the Department of Environmental Protection who shall be appointed by the secretary of the department.

6. A representative of the Department of Corrections who shall be appointed by the secretary of the department.

Section 6. Section 381.695, Florida Statutes, is renumbered as section 408.0365, Florida Statutes, and amended to read:

408.0365 ~~381.695~~ Certificate-of-need exemption.—Any inmate health care facility built by or for the exclusive use of the Department of Corrections pursuant to *ss. 945.601 through 945.6035* ~~this act~~ is exempt from the certificate-of-need requirements of this chapter. This exemption expires when the facility is converted to other purposes.

Section 7. Subsection (2) of section 776.07, Florida Statutes, is amended to read:

776.07 Use of force to prevent escape.—

(2) A *correctional officer* ~~guard~~ or other law enforcement officer is justified in the use of force, including deadly force, which he reasonably believes to be necessary to prevent the escape from a penal institution of a person whom the officer reasonably believes to be lawfully detained in such institution under sentence for an offense or awaiting trial or commitment for an offense.

Section 8. Subsection (1) of section 843.04, Florida Statutes, is amended to read:

843.04 Refusing to assist prison officers in arresting escaped convicts.—

(1) All prison officers and *correctional officers* ~~guards~~ shall immediately arrest any convict, held under the provisions of law, who may have escaped. Any such officer or guard may call upon the sheriff or other officer of the state, or of any county or municipal corporation, or any citizen, to make search and arrest such convict.

Section 9. Section 843.08, Florida Statutes, 1994 Supplement, is amended to read:

843.08 Falsely personating officer, etc.—Whoever falsely assumes or pretends to be a sheriff, officer of the Florida Highway Patrol, officer of the Game and Fresh Water Fish Commission, officer of the Department of Environmental Protection, *officer of the Department of Corrections, correctional probation officer,* deputy sheriff, state attorney investigator, coroner, police officer, lottery special agent or lottery investigator, beverage enforcement agent, or watchman, or any member of the Parole Commission and any administrative aide or supervisor employed by said commission, or any personnel or representative of the Department of Law Enforcement, and takes upon himself to act as such, or to require any person to aid or assist him in a matter pertaining to the duty of any such officer, shall be deemed guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083; provided, however, that whoever falsely personates a police officer during the course of the commission of a felony shall be deemed guilty of a felony of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 10. Subsection (2) of section 921.16, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

921.16 When sentences to be concurrent and when consecutive.—

(2) A county court or circuit court of this state may direct that the sentence imposed by such court be served concurrently with a sentence imposed by a court of another state or of the United States *or, for purposes of this section, concurrently with a sentence to be imposed in another jurisdiction.* In such case, the Department of Corrections may designate the correctional institution of the other jurisdiction as the place for reception and confinement of such person and may also designate the place in Florida for reception and confinement of such person in the event that confinement in the other jurisdiction terminates before the expiration of the Florida sentence. *The sheriff shall forward commitment papers and other documents specified in s. 944.17 to the department.* Upon imposing such a sentence, the court shall notify the Parole Commission as to the jurisdiction in which the sentence is to be served. Any prisoner so released to another jurisdiction shall be eligible for consideration for parole by the Parole Commission pursuant to the provisions of chapter 947, except that the commission shall determine the presumptive parole release date and the effective parole release date by requesting such person's file from the receiving jurisdiction. Upon receiving such records, the commission shall determine these release dates based on the relevant information in that file and shall give credit toward reduction of the Florida sentence for gain-time granted by the jurisdiction where the inmate is serving the sentence. The Parole Commission may concur with the parole release decision of the jurisdiction granting parole and accepting supervision.

(3) In the event the court directs the Florida sentence to be coterminous as well as concurrent with a sentence in another jurisdiction, the department shall notify the other jurisdiction of the department's interest in the offender until the offender has satisfied the commitment in the other jurisdiction, or the Florida sentence has expired, whichever occurs first. This interest does not prevent or interfere with any program participation approved by the other jurisdiction, nor does it prohibit parole or any similar release granted by the other jurisdiction. If the offender is paroled by the other jurisdiction, or the sentence is otherwise interrupted prior to satisfaction, the department shall maintain an interest until supervision is terminated or the sentence has been satisfied.

Section 11. Subsection (2) of section 922.11, Florida Statutes, is amended to read:

922.11 Regulation of execution.—

(2) Twelve citizens selected by the superintendent shall witness the execution. A qualified physician shall be present and announce when death has been inflicted. Counsel for the convicted person and ministers of religion requested by the convicted person may be present. Representatives of news media may be present under rules approved by the Secretary of Corrections. All other persons, except prison officers and *correctional officers* ~~guards~~, shall be excluded during the execution.

Section 12. Section 943.10, Florida Statutes, is amended to read:

943.10 Definitions; ss. 943.085-943.255.—The following words and phrases as used in ss. 943.085-943.255 are defined as follows:

(1) "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

(2) "Correctional officer" means any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term "correctional officer" does not include any secretarial, clerical, or professionally trained personnel.

(3) "Correctional probation officer" means a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controllees within institutions of the Department of Corrections or within the community. The term includes supervisory personnel whose duties include, in whole or in part, the supervision, training, and guidance of correctional probation officers, but excludes management and administrative personnel above, but not including, the probation and parole regional administrator level.

(4) "Employing agency" means any agency or unit of government or any municipality or the state or any political subdivision thereof, or any agent thereof, which has constitutional or statutory authority to employ or appoint persons as officers. The term also includes any private entity which has contracted with the state or county for the operation and maintenance of a nonjuvenile detention facility.

(5) "Commission" means the Criminal Justice Standards and Training Commission.

(6) "Part-time law enforcement officer" means any person employed or appointed less than full time, as defined by an employing agency, with or without compensation, who is vested with authority to bear arms and make arrests and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.

(7) "Part-time correctional officer" means any person who is employed or appointed less than full time, as defined by the employing or appointing agency, with or without compensation, whose responsibilities include the supervision, protection, care, custody, and control of inmates within a correctional institution.

(8) "Auxiliary law enforcement officer" means any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time law enforcement officer and who, while under the direct supervision of a full-time or part-time law enforcement officer, has the authority to arrest and perform law enforcement functions.

(9) "Auxiliary correctional officer" means any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time correctional officer and who, while under the supervision of a full-time or part-time correctional officer, has the same authority as a full-time or part-time correctional officer for the purpose of providing supervision, protection, care, custody, and control of inmates within a correctional institution or a county or municipal detention facility.

(10) "Private criminal justice training school" means any private school, corporation, or institution, for profit or not for profit, devoted wholly or in part to instruction, by correspondence or otherwise, in criminal justice services, administration, training, and education, which awards any type of certificate, diploma, degree, or recognition for attendance, graduation, study, or participation to students, enrollees, or participants. This definition applies to all such schools operating wholly or in part within the state, including those chartered, incorporated, or formed outside the state.

(11) "Support personnel" means any person employed or appointed by an employing agency who is not an officer or, as specified by the commission, other professional employee in the criminal justice system.

(12) "Division" means the Division of Criminal Justice Standards and Training of the Department of Law Enforcement.

(13) "Head of the department" means the Governor and Cabinet, as provided for in ss. 20.201 and 20.03(4).

(14) "Officer" means any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer, correctional officer, or correctional probation officer.

(15) "Public criminal justice training school" means any school defined in s. 228.041, or any academy operated by an employing agency, that is certified by the commission to conduct criminal justice training courses.

(16) "Criminal justice training school" means any private or public criminal justice training school certified by the commission.

(17) "Training center director" means a full-time salaried employee of a criminal justice training school who is responsible for the scheduling and general management of criminal justice courses and supervision and evaluation of criminal justice instructors.

(18) "Auxiliary correctional probation officer" means any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time correctional probation officer and who, while under the supervision of a full-time or part-time correctional probation officer, has the same authority as a full-time or part-time correctional probation officer for the purpose of providing supervision of offenders in the community.

Section 13. Subsection (2) of section 943.1397, Florida Statutes, is amended to read:

943.1397 Officer certification examinations; fee.—

(2) *For those applicants who fail* ~~If an applicant fails~~ to achieve an acceptable score on an officer certification examination, *the commission shall, by rule, establish a procedure for* ~~the applicant must wait at least 90 days before~~ retaking the examination *and the rule may include a remedial training program requirement.* An applicant shall not take an officer certification examination more than three times, unless the applicant has reenrolled in, and successfully completed, the basic recruit training program.

Section 14. Section 944.06, Florida Statutes, is created to read:

944.06 Department employees; personal vehicle damage claims.—Employees of the Department of Corrections who are required to use their personal vehicles in the performance of their duty may file claims for damages made to their personal vehicles while on official state business. Such claims for reimbursement may be filed with the department at its office in accordance with rules adopted by the department. Such claims shall be limited to an amount for repairs at the insurance deductible amount. The department shall make or cause to be made such investigations as it considers necessary in respect to such claims.

Section 15. Section 944.151, Florida Statutes, is created to read:

944.151 Security of correctional institutions; legislative intent; periodic physical inspection of facilities; security audits; reports of security audits; procedures in the event of escapes; annual budget request.—It is the intent of the Legislature that the Department of Corrections shall be responsible for the security of the correctional institutions and facilities. The security of the state's correctional institutions and facilities is critical to ensure public safety and to contain violent and chronic offenders until offenders are otherwise released from the department's custody pursuant to law. The Secretary of Corrections shall, at a minimum:

(1) Appoint a security review committee which shall, at a minimum, be composed of: the inspector general, the statewide security coordinator, the regional security coordinators, and three superintendents and one correctional officer. The security review committee shall:

(a) Establish a periodic schedule for the physical inspection of buildings and structures of each state and private correctional institution to determine security deficiencies. In scheduling the inspections, priority shall be given to older institutions, institutions that house a large proportion of violent offenders, and institutions that have experienced a significant number of escapes or escape attempts in the past.

(b) Conduct or cause to be conducted announced and unannounced comprehensive security audits of all state and private correctional institutions. In conducting the security audits, priority shall be given to older institutions, institutions that house a large proportion of violent offenders, and institutions that have experienced a history of escapes or escape attempts. At a minimum, the audit shall include an evaluation of the physical plant, landscaping, fencing, security alarms and perimeter lighting, and inmate classification and staffing policies. Each correctional institution shall be audited at least annually. The secretary shall report the general survey findings annually to the Governor and the Legislature.

(c) Adopt and enforce minimum security standards and policies that include, but are not limited to:

1. Random monitoring of outgoing telephone calls by inmates.

2. Maintenance of current photographs of all inmates.

3. Daily inmate counts at varied intervals.

4. Use of canine units, where appropriate.

5. Use of escape alarms and perimeter lighting.

6. Florida Crime Information Center/National Crime Information Center capabilities.

7. Employment background investigations.

(d) Annually make written prioritized budget recommendations to the secretary that identify critical security deficiencies at major correctional institutions.

(e) Investigate and evaluate the usefulness and dependability of existing security technology at the institutions and new technology available and make periodic written recommendations to the secretary on the discontinuation or purchase of various security devices.

(f) Contract, if deemed necessary, with security personnel, consulting engineers, architects, or other security experts the committee deems necessary for security audits and security consultant services.

(g) Establish a periodic schedule for conducting announced and unannounced escape simulation drills.

(2) Maintain and produce quarterly reports with accurate escape statistics. For the purposes of these reports, "escape" includes all possible types of escape, regardless of prosecution by the state attorney, and including offenders who walk away from nonsecure community facilities.

(3) Adopt, enforce, and annually evaluate the emergency escape response procedures, which shall at a minimum include the immediate notification and inclusion of local and state law enforcement through a mutual aid agreement.

(4) Submit in the annual legislative budget request a prioritized summary of critical repair and renovation security needs.

Section 16. Section 944.39, Florida Statutes, is amended to read:

944.39 Interference with prisoners; penalty.—Any person who, without authority, interferes with or in any way interrupts the work of any prisoner under the custody of the department or who in any way interferes with the discipline or good conduct of any prisoner shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. No person shall, by disguise, misrepresentation of identity or other illicit means, attempt to gain admission to or enter upon the grounds of any state correctional institution for the purpose of visiting any prisoner in violation of the general visiting policy adopted by the department. A person, upon conviction of an offense as outlined in this section, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any peace officer or any *correctional* officer ~~or guard~~ of the department or any prison inspector or any employee of the department may arrest without warrant any person violating the provisions of this section.

Section 17. Section 944.095, Florida Statutes, is amended to read:

944.095 Siting of additional correctional facilities; study; criteria.—

(1) *It is the intent of the Legislature that the siting of additional correctional facilities shall be achieved in the most cost-efficient manner possible.* ~~The Department of Corrections and the Department of Health and Rehabilitative Services are each directed to conduct a statewide comprehensive study to determine current and future needs for all types of correctional facilities in this state. As used in this section, "correctional facilities" include both adult and juvenile facilities, and "department" means either the Department of Corrections or the Department of Health and Rehabilitative Services, as the context requires.~~

~~(2) The study shall assess, rank, and designate appropriate sites and be reflective of the different purposes and uses for all correctional facilities based upon the following criteria:~~

~~(a) Current and future estimates of offenders originating from each county;~~

~~(b) Current and future estimates of types of crimes committed in each county;~~

~~(c) The geographic location of existing state correctional facilities;~~

~~(d) The availability of personnel within the local labor market;~~

~~(e) The current capacity of facilities in the area;~~

~~(f) The total usable and developable acreage of various sites based upon the use and purpose of the facility;~~

~~(g) The accessibility of each site to existing utility, transportation, law enforcement, health care, fire protection, refuse collection, water, and sewage disposal services;~~

~~(h) The susceptibility of each site to flooding hazards or other adverse natural environmental consequences;~~

~~(i) Site location in relation to desirable and undesirable proximity to other public facilities, including schools;~~

~~(j) Patterns of residential growth and projected population growth; and~~

~~(k) Such other criteria as the department, in conjunction with local governments, deems appropriate.~~

~~Nothing herein shall be construed to require the department to locate in each county the same percentage of prison beds as the percentage of inmates which the county contributes to the state correctional system.~~

~~(3) The department shall recommend certification of the study by the Governor and Cabinet within 2 months of its receipt.~~

~~(4) Upon certification of the study by the Governor and Cabinet, the department shall notify those counties designated as being in need of a correctional facility.~~

(2)~~(5)~~ When the department proposes a site for a state correctional facility, it shall request that the local government having jurisdiction over such proposed site determine whether or not the proposed site is in compliance with local government comprehensive plans, local land use ordinances, local zoning ordinances or regulations, and other local ordinances in effect at the time of such request. If no such determination is made within 90 days of the request, it shall be presumed that the proposed site is in compliance with such plans, ordinances, or regulations.

(3)~~(6)~~ If the local government determines within 90 days of the request that construction of a correctional facility on the proposed site does not comply with any such plan, ordinance, or regulation, the department may request a modification of such plan, ordinance, or regulation without having an ownership interest in such property. For the purposes of this section, modification includes, but is not limited to, a variance, rezoning, special exception, or any other action of the local government having jurisdiction over the proposed site which would authorize siting of a correctional facility.

(4)~~(7)~~ Upon receipt of a request for modification from the department, the local government may recommend alternative sites to the department and shall give notice and hold a public hearing on the request for modification in the same manner as for a rezoning as provided under the appropriate special or local law or ordinance, except that such proceeding shall be recorded by tape or by a certified court reporter and made available for transcription at the expense of any interested party.

(5)~~(8)~~ When the department requests such a modification and it is denied by the local government or there is no action on such request within 90 days of the request, the department may appeal the decision of the local government on the requested modification of local plans, ordinances, or regulations to the Governor and Cabinet.

(6)~~(9)~~ The Governor and Cabinet shall consider the following when determining whether to grant the appeal from the decision of the local government on the requested modification:

(a) The record of the proceedings before the local government.

(b) Reports and studies by any other agency relating to matters within the jurisdiction of such agency which matters may be potentially affected by the proposed site.

(c) ~~The statewide study, as established in subsection (1); other~~ Existing studies *and*~~;~~ reports and information maintained by the department as the Governor and Cabinet may request addressing the feasibility and availability of alternative sites in the general area~~; and the need for a correctional facility in the area based on the average number of commitments from the county to state correctional facilities for the most recent 3 calendar years~~.

(7)~~(10)~~ The Governor and Cabinet, upon determining that the local government has recommended no feasible alternative site and that the interests of the state in providing correctional facilities outweigh the concerns of the local government, shall authorize construction and operation of a correctional facility on the proposed site notwithstanding any local plan, ordinance, or regulation.

(8)~~(11)~~ The Governor and Cabinet may adopt rules of procedure to govern these proceedings in accordance with the provisions of s. 120.54.

(9)~~(12)~~ Actions taken by the department or the Governor and Cabinet pursuant to this section shall not be subject to the provisions of ss. 120.56 and 120.57. The decision by the Governor and Cabinet shall be subject to judicial review pursuant to s. 120.68 in the District Court of Appeal, First District.

(10)~~(13)~~ Insofar as the provisions of this section are inconsistent with the provisions of any other law, general, special, or local, the provisions of this section are controlling. Additionally, the criteria and procedures set forth in this section supersede and are in lieu of any review and approval required by s. 380.06.

Section 18. Section 944.11, Florida Statutes, is amended to read:

944.11 Department to *regulate* ~~adopt rules as to~~ admission of books.—

(1) The department shall *regulate* ~~adopt such regulations as it may deem proper governing~~ the admission of educational and other reading matter within the state institutions for the use of the prisoners, and for the proper observance of days of religious significance within the institutions and for the proper instruction of the prisoners in their basic moral and religious duties.

(2) The department shall have the authority to prohibit admission of reading materials or publications with content which depicts sexual conduct as defined by s. 847.001 or presents nudity in such a way as to create the appearance that sexual conduct is imminent. The department shall have the authority to prohibit admission of such materials at a particular state correctional facility upon a determination by the department that such material or publications would be detrimental to the safety, security, order or rehabilitative interests of a particular state correctional facility or would create a risk of disorder at a particular state correctional facility.

Section 19. Subsection (5) is added to section 944.516, Florida Statutes, to read:

944.516 Money or other property received for personal use or benefit of inmate; deposit; disposition of unclaimed trust funds.—The Department of Corrections shall protect the financial interest of the state with respect to claims which the state may have against inmates in state institutions under its supervision and control and shall administer money and other property received for the personal benefit of such inmates. In carrying out the provisions of this section, the department may delegate any of its enumerated powers and duties affecting inmates of an institution to the superintendent or regional director who shall personally, or through designated employees of his personal staff under his direct supervision, exercise such powers or perform such duties.

(5) When an inmate is transferred between department facilities, is released from the custody of the department, dies, or escapes during incarceration, and the inmate has an unexpended inmate trust fund account balance of less than $1, that balance shall be transferred to the Inmate Welfare Trust Fund.

Section 20. Section 944.606, Florida Statutes, is amended to read:

944.606 Sex offender; notification upon release.—

(1) The Legislature finds that sex offenders pose a high risk of engaging in sex offenses even after being released from incarceration or commitment and that protection of the public from sex offenders is a paramount governmental interest. Persons found to have committed a sex offense described in subsection (2) have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Release of information about sexual offenders described in subsection (2) to public agencies will further the governmental interests of public safety.

(2)(a) The department, the Parole Commission, and the Control Release Authority shall submit the information about any sex offender as provided by this section to the sheriff of the county from which the person was sentenced, to the sheriff of the county in which the person plans to reside and, if applicable, to the chief of police of the municipality in which the inmate plans to reside. The information shall be submitted for any sex offender who is being released after having served one or more sentences for a felony conviction of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, or a prior conviction for a similar offense in this state or another jurisdiction if such prior conviction information is contained in department records.

(b) The information shall include, but not be limited to: the offender's name, social security number, race, sex, date of birth, height, weight, and hair and eye color; date and county of sentence and each crime for which the offender was sentenced; a copy of the offender's fingerprints and a photograph taken within 90 days of release; and the offender's intended residence address, if known. The department, the Parole Commission, or the Control Release Authority shall release this information within 6 months prior to the discharge from the custody of the department.

(3) The department or any law enforcement agency that receives verified information, regardless of the source, about persons found to have committed a sexual offense described in subsection (2) is authorized to publicly release such information in the interest of public safety.

(4) Any information received by the department or a law enforcement agency under subsections (1) and (2) is verified per se, and the department, a law enforcement agency, or an officer or employee of the department or a law enforcement agency who releases such information is immune from civil liability. The department, a law enforcement agency, or an officer or employee of the department or a law enforcement agency who releases information about persons found to have committed a sexual offense described in subsection (2), when such information was received from sources other than those described in subsections (1) and (2) but was verified by a copy of a judgment of conviction or similar court order, is deemed to have acted in good faith and is immune from civil liability. A computerized criminal history, by itself, is not sufficient verification for a grant of civil immunity under this section.

Section 21. Section 944.703, Florida Statutes, is amended to read:

944.703 Eligible inmates.—Sections 944.701-944.708 apply to all inmates released from the custody of the department ~~except those released from a work release program or to another state~~. Those inmates with a detainer are eligible if the department determines that cancellation of the detainer is likely or that the incarceration for which the detainer was issued will be of short duration. The department shall confirm the detainer with the originating authority prior to release.

Section 22. Section 944.704, Florida Statutes, is amended to read:

944.704 Staff who provide transition assistance; duties.—~~.~~The department shall *provide a transition assistance officer* ~~designate staff~~ at major institutions whose duties include, but are not limited to:

(1) Coordinating delivery of *transition* ~~release~~ assistance program services at the institution.

(2) Assisting in the development of each inmate's postrelease plan.

(3) Obtaining job placement information for transmittal to the Department of Labor and Employment Security.

(4) Providing a photo identification card to all inmates prior to their release.

Section 23. Section 944.706, Florida Statutes, is amended to read:

944.706 Basic release assistance.—

(1) Any inmate who is being released is eligible for *transition* ~~release~~ assistance~~, except when being released from a work release program or to another state~~. Those inmates released to a detainer are eligible pursuant to s. 944.703. ~~Selected inmates on work release who experience severe hardships may be considered for release assistance.~~

(2) The department is authorized to contract with the Department of Health and Rehabilitative Services, the Salvation Army, and other public or private organizations for the provision of basic support services for releasees. The department shall contract with the Department of Labor and Employment Security for the provision of releasee job placement.

(3) The department shall promulgate rules for the development, implementation, and termination of *transition* ~~release~~ assistance.

Section 24. Subsections (1) and (2) of section 944.707, Florida Statutes, are amended to read:

944.707 Postrelease special services; job placement services.—

(1) The department shall attempt to generate and provide to every ~~eligible~~ releasee, identified by the prerelease needs assessment, support services such as, but not limited to, substance abuse counseling, family counseling, and employment support programs. The department is authorized to select and contract with public or private organizations for the provision of these basic support services. Provider selection criteria include, but are not limited to:

(a) The depth and scope of services provided.

(b) The geographic area to be served.

(c) The number of inmates to be served and the cost of services per inmate.

(d) The individual provider's record of success in the provision of inmate services.

(2) ~~The department shall forward~~ The following items *shall be provided* to the Department of Labor and Employment Security job service office located nearest to the inmate's intended residence:

(a) The job placement information obtained at release orientation.

(b) Referral information for the needed basic support service providers.

Section 25. Section 945.03, Florida Statutes, is created to read:

945.03 Employment of relatives.—

(1) For the purposes of this section, the term:

(a) "Department" means the Department of Corrections.

(b) "Relative" means an individual who is related to another as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(c) "Organizational unit" includes:

1. A unit of a state correctional institution such as security, medical, dental, classification, maintenance, personnel, or business. A work camp, boot camp, or other annex of a state correctional institution is considered part of the institution and not a separate unit.

2. An area of a regional office such as personnel, medical, administrative services, probation and parole, or community facilities.

3. A correctional work center, road prison, or work release center.

4. A probation and parole circuit office or a suboffice within a circuit.

5. A bureau of the Office of the Secretary or of any of the assistant secretaries.

(d) "Line of authority" means any position having supervisory authority within the direct chain of command or supervisory path that organizationally links any position in the department to the secretary.

(e) "Direct supervision" means being an employee's immediate supervisor, or the rater or reviewer of the employee's performance.

(2) In the interest of security and effective management, the department may adopt rules prohibiting the employment of relatives in the same organizational unit or in positions in which one employee would be in the line of authority over the other or under the direct supervision of the other.

Section 26. Subsections (4) and (5) are added to section 945.04, Florida Statutes, to read:

945.04 Department of Corrections; general function; seal; use of inmate labor.—

(4) The Department of Corrections shall exert its best efforts to assign inmates to the corporation authorized to conduct correctional work programs under part II of chapter 946, or the private sector business authorized under part I or part II of chapter 946, that have not less than 1 nor more than 5 years remaining before their tentative release date. By January 1, 1996, and at no time thereafter shall the department assign less than 60 percent of inmates to correctional work programs under part I or part II of chapter 946 who have less that 10 years remaining before their tentative release dates. By November 1, 1995, the department shall submit to the Legislature a report which outlines strategies for complying with the provision of this subsection.

(5) The Department of Corrections may not remove an inmate once assigned to the corporation authorized to conduct correctional work programs under part II of chapter 946 or to the private sector business authorized under part I or part II of chapter 946, except upon request of or consent of such corporation or private sector business, except for population management, for inmate conduct which may subject the inmate to disciplinary confinement or loss of gain-time, or of security and safety concerns specifically set forth in writing to the corporation or private sector business.

Section 27. Subsection (1) of section 945.091, Florida Statutes, is amended to read:

945.091 Extension of the limits of confinement; restitution by employed inmates.—

(1) The department is authorized to adopt regulations permitting the extension of the limits of the place of confinement of an inmate as to whom there is reasonable cause to believe that he will honor his trust by authorizing him, under prescribed conditions and following investigation and approval by the secretary, *or the deputy secretary or regional directors of the department as the secretary's designee,* who shall maintain a written record of such action, to leave the confines of that place unaccompanied by a custodial agent for a prescribed period of time to:

(a) Visit, for a specified period, a specifically designated place or places:

1. For the purpose of visiting a dying relative, attending the funeral of a relative, or arranging for employment or for a suitable residence for use when released;

2. To otherwise aid in the rehabilitation of the inmate; or

3. For another compelling reason consistent with the public interest,

and return to the same or another institution or facility designated by the Department of Corrections.

(b) Work at paid employment, participate in an education or a training program, or voluntarily serve a public or nonprofit agency in the community, while continuing as an inmate of the institution or facility in which he is confined, except during the hours of his employment, education, training, or service and traveling thereto and therefrom. An inmate may participate in paid employment only during the last 36 months of his confinement, unless sooner requested by the Parole Commission or the Control Release Authority.

(c) Participate in a residential or nonresidential rehabilitative program operated by a public or private, nonprofit agency with which the department has contracted for the treatment of such inmate. The provisions of ss. 216.311 and 287.057 shall apply to all contracts between the department and any private entity providing such services. The department shall require such agency to provide appropriate supervision of inmates participating in such program. The department is authorized to terminate any inmate's participation in the program if such inmate fails to demonstrate satisfactory progress in the program as established by departmental rules.

(d) Participate in a rehabilitative community reentry program on conditional release for a specified period not to exceed the last 90 days of confinement. While in a supervised release status, the inmate shall not be considered to be in the care and custody of the department or in confinement, extended or otherwise. The inmate shall be under the supervision of the department in the community as prescribed by the department. The department is authorized to terminate any inmate's participation in the program if such inmate fails to demonstrate satisfactory progress in the program as established by departmental rules and return such inmate to the institution or facility designated by the department. Inmates shall remain eligible to earn or lose gain-time as prescribed by law and rules of the department.

Section 28. The Department of Corrections shall implement a plan by December 1, 1995, to require that selected inmates perform labor wearing leg irons in chain-gang work groups. It is the intent of the Legislature that such program be designed for inmates who commit disciplinary infractions.

Section 29. Section 945.092, Florida Statutes, is created to read:

945.092 Limits on work-release and minimum security custody for persons who have committed the crime of escape.—A person who has ever been convicted, regardless of adjudication, of the offense of escape, as prohibited by s. 944.40 or its successor, or as prohibited by a similar law of another state, is not eligible for any work-release program under s. 945.091 or for confinement in minimum security conditions.

Section 30. Subsection (1) of section 945.27, Florida Statutes, 1994 Supplement, is amended to read:

945.27 Proceedings by department.—

(1) Whenever it becomes necessary to increase the number of prison beds by acquiring private property for the construction of new correctional facilities or for the expansion of existing facilities, and the property cannot be acquired by agreement satisfactory to the Department of Corrections and the parties interested in, or the owners of, the private property, the department is hereby empowered and authorized to exercise the right of eminent domain and to proceed to condemn the property in the same manner as provided by law for the condemnation of property. ~~The Board of Trustees of the Internal Improvement Trust Fund must approve the institution of any condemnation action before the action is filed by the department.~~

Section 31. Effective upon this act becoming a law, section 945.28, Florida Statutes, is created to read:

945.28 Selection of probation or parole offices by the department; public notice.—Beginning July 1, 1995, whenever the department is going to enter into a contract for the lease or purchase of a probation or parole office space to be used by the department, the department shall provide notice, by publication in the county in which the office space is to be located, in a newspaper of general circulation in said county, 30 days prior to signing any lease or purchasing any property to be used for office space, that the department intends to lease or purchase such property. The published notice shall include a telephone number whereby interested members of the public may communicate with the department with respect to any questions or input the public may have with regard to the proposed lease or purchase.

Section 32. Section 945.31, Florida Statutes, as amended by section 14 of chapter 93-120, Laws of Florida, is amended to read:

945.31 Restitution and other payments.—The department *may establish bank accounts outside the State Treasury for the purpose of collecting and disbursing* ~~shall collect and dispense~~ restitution and other court-ordered payments from persons in its custody or under its supervision, and may collect an administrative processing fee in an amount equal to 4 percent of the gross amounts of such payments. Such administrative processing fee shall be deposited in the department's Grants and Donations Trust Fund, and shall be used to offset the cost of the department's services.

Section 33. Paragraph (d) of subsection (1) of section 945.6037, Florida Statutes, 1994 Supplement, is amended to read:

945.6037 Nonemergency health care; inmate copayments.—

(1)

(d) The department may waive all or part of the copayment for an inmate's visit to a health care provider if the health care:

1. Is provided in connection with an extraordinary event that could not reasonably be foreseen, such as a disturbance or a natural disaster;

2. Is an institution-wide health-care measure that is necessary to address the spread of specific infectious or contagious diseases;

3. Is provided under a contractual obligation that is established under the Interstate Corrections Compact or under an agreement with another jurisdiction which precludes assessing such a copayment; ~~or~~

4. Was initiated by the health care provider or consists of routine followup care;~~.~~

5. Is initiated by the inmate to voluntarily request an HIV test;

6. Produces an outcome that requires medical action to protect staff or inmates from a communicable disease; or

7. When the inmate is referred to mental health evaluation or treatment by a correctional officer, correctional probation officer, or other person supervising an inmate worker.

Section 34. Subsection (3) of section 946.006, Florida Statutes, 1994 Supplement, is amended, and subsection (4) is added to that section, to read:

946.006 Correctional work programs.—

(3) The department is authorized to contract with the private sector for substantial involvement in a prison industry program which includes the operation of a direct private sector business within a prison and the hiring of inmate workers. ~~If authorized by federal law,~~ The corporation acting on behalf of the state to operate prison industries established pursuant to part II is also authorized to contract with the private sector for substantial involvement in a prison industry program pursuant to this act, if said contract is approved by the department. Any contract authorized by this subsection shall be in compliance with federal law and shall not result in the significant displacement of employed workers in the community. The purposes and objectives of this program shall be to:

(a) Increase benefits to the general public by reimbursement to the state for a portion of the costs of incarceration.

(b) Provide purposeful work for inmates as a means of reducing tensions caused by overcrowding.

(c) Increase job skills.

(d) Provide additional opportunities for rehabilitation of inmates who are otherwise ineligible to work outside the prisons, such as maximum security inmates.

(e) Develop and establish new models for prison-based businesses which create jobs approximating conditions of private sector employment.

(f) Draw upon the economic base of operations for disposition to the Crimes Compensation Trust Fund.

(g) Substantially involve the private sector with its capital, management skills, and expertise in the design, development, and operation of businesses.

(h) Provide the financial basis for an inmate to contribute to the support of his family.

(i) Provide for the payment of state and federal taxes on an inmate's wages, which are paid at the rate of the prevailing or minimum wage rate.

(j) Provide savings for the inmate to have available for his use upon his eventual release from prison.

(4) Notwithstanding any other law to the contrary, including s. 440.15(9), private sector employers shall provide inmates participating in correctional work programs under subsection (3) with workers' compensation coverage, and inmates shall be entitled to the benefits of such coverage. Nothing in this subsection shall be construed to allow inmates to participate in unemployment compensation benefits.

Section 35. Section 946.006(4), Florida Statutes, shall not apply to the correctional work programs operated under part II of chapter 946, Florida Statutes.

Section 36. It is the intent of the Legislature that the Department of Corrections cooperate with and assist the corporation created under section 946.504(1), Florida Statutes, in seeking qualification and in contracting with the private sector for substantial involvement in prison industry programs pursuant to section 946.006(3), Florida Statutes.

Section 37. Section 946.41, Florida Statutes, is created to read:

946.41 Promotion of inmate work programs; safety signage.—The department shall, to the extent possible and within existing resources, promote inmate work programs to the public which may include any or all of the following: signs clearly displayed which identify inmate work crews as inmates working in the community under the supervision of the department or another entity, signs clearly displayed on vehicles commonly utilized for the purpose of transporting inmate work crews working in the community, or signs clearly displayed by the supervising entity in public areas when inmate work crews are performing roadway maintenance or when safety signs are otherwise required. The department may also provide a uniform of distinctive design for inmate work crews in the community, including work crews under the supervision of another entity.

Section 38. Subsections (3) and (4) of section 946.515, Florida Statutes, are amended to read:

946.515 Use of goods and services produced in correctional work programs.—

(3) Raw agricultural products, including, but not limited to, sugar cane, vegetables, beef, and dairy products, may be sold to private entities or may be sold or disposed of as provided in subsections (1) and (2). *The corporation may contract with any political subdivision of this state to operate a fish and seafood processing plant and to spawn and grow fish and seafood for sale as provided in this subsection.*

(4) The provisions of part I of chapter 287 do not apply to any purchases of commodities or contractual services made by any *legislative, executive, or judicial agency of the* state ~~agency~~ from the corporation.

Section 39. Effective October 6, 1995, subsection (1) of section 947.01, Florida Statutes, is amended to read:

947.01 Parole Commission; creation; number of members.—

(1)(a) A Parole Commission is created to consist of *five* ~~nine~~ members who are residents of the state.

(b) Effective *October 6, 1995* ~~July 1, 1990~~, the membership of the commission shall be *six appointed* ~~nine~~ members ~~and appointment shall be made pursuant to s. 947.02(3)~~. *After October 6, 1995, upon the first vacant seat occurring, for any reason other than expiration of term, the membership shall be reduced to five.*

Section 40. Subsection (4) of section 947.141, Florida Statutes, 1994 Supplement, is amended, present subsection (5) is renumbered as subsection (6), and a new subsection (5) is added to that section, to read:

947.141 Violations of conditional release, control release, or conditional medical release.—

(4) Within a reasonable time following the hearing, the commissioner or the commissioner's duly authorized representative who conducted the hearing shall make findings of fact in regard to the alleged violation. A panel of no fewer than two commissioners shall enter an order determining whether the charge of violation of conditional release, control release, or conditional medical release has been sustained based upon the findings of fact presented by the hearing commissioner or authorized representative. By such order, the panel may revoke conditional release, control release, or conditional medical release and thereby return the releasee to prison to serve the sentence imposed, reinstate the original order granting the release, or enter such other order as it considers proper. *Effective for inmates whose offenses were committed on or after July 1, 1995, the panel may order the placement of a releasee, upon a finding of violation pursuant to this subsection, into a local detention facility as a condition of supervision.*

(5) Effective for inmates whose offenses were committed on or after July 1, 1995, notwithstanding the provisions of ss. 775.08, 921.001, 921.187, 944.02, 921.188, and 951.23, or any other law to the contrary, by such order as provided in subsection (4), the panel, upon a finding of guilt, may, as a condition of continued supervision, place the releasee in a local detention facility for a period of incarceration not to exceed 22 months. Prior to the expiration of the term of incarceration, or upon recommendation of the chief correctional officer of that county, the commission shall cause inquiry into the inmate's release plan and custody status in the detention facility and consider whether to restore the inmate to supervision, modify the conditions of supervision, or enter an order of revocation, thereby causing the return of the inmate to prison to serve the sentence imposed. The provisions of this section do not prohibit the panel from entering such other order or conducting any investigation that it deems proper. The commission may only place a person in a local detention facility pursuant to this section if there is a contractual agreement between the chief correctional officer of that county and the Department of Corrections. The agreement must provide for a per diem reimbursement for each person placed under this section, which is payable by the Department of Corrections for the duration of the offender's placement in the facility. This section does not limit the commission's ability to place a person in a local detention facility for less than 1 year.

(6)~~(5)~~ Whenever a conditional release, control release, or conditional medical release is revoked by a panel of no fewer than two commissioners and the releasee is ordered to be returned to prison, the releasee, by reason of the misconduct, may be deemed to have forfeited all gain-time or commutation of time for good conduct, as provided for by law, earned up to the date of release. However, if a conditional medical release is revoked due to the improved medical or physical condition of the releasee, the releasee shall not forfeit gain-time accrued before the date of conditional medical release. This subsection does not deprive the prisoner of the right to gain-time or commutation of time for good conduct, as provided by law, from the date of return to prison.

Section 41. Subsection (7) of section 948.09, Florida Statutes, 1994 Supplement, is amended to read:

948.09 Payment for cost of supervision and rehabilitation.—

(7) The department shall establish a payment plan for all costs ordered by the courts for collection by the department and a priority order for payments, except that victim restitution payments authorized under s. 948.03(1)(e) take precedence over all other court-ordered payments. *The department is not required to disburse cumulative amounts of less than $10 to individual payees established on this payment plan.*

Section 42. Section 948.15, Florida Statutes, is amended to read:

948.15 Misdemeanor probation services.—

(1) Defendants found guilty of misdemeanors who are placed on probation shall be under supervision not to exceed 6 months unless otherwise specified by the court. In relation to any offense other than a felony in which the use of alcohol is a significant factor, the period of probation may be up to 1 year.

(2) A private entity or public entity under the supervision of the board of county commissioners or the court may provide probation services for offenders sentenced by the county court.

(3)~~(2)~~ Any private entity providing services for the supervision of misdemeanor probationers must contract with the county in which the services are to be rendered. In a county with a population of less than 70,000, the county court judge, or the administrative judge of the county court in a county that has more than one county court judge, must approve the contract. Terms of the contract must state, but are not limited to:

(a) The extent of the services to be rendered by the entity providing supervision or rehabilitation.

(b) Staff qualifications and criminal record checks of staff in accordance with essential standards established by the American Correctional Association as of January 1, 1991.

(c) Staffing levels.

(d) The number of face-to-face contacts with the offender.

(e) Procedures for handling the collection of all offender fees and restitution.

(f) Procedures for handling indigent offenders which ensure placement irrespective of ability to pay.

(g) Circumstances under which revocation of an offender's probation may be recommended.

(h) Reporting and recordkeeping requirements.

(i) Default and contract termination procedures.

(j) Procedures that aid offenders with job assistance.

In addition, the entity shall supply the chief judge's office with a quarterly report summarizing the number of offenders supervised by the private entity, payment of the required contribution under supervision or rehabilitation, and the number of offenders for whom supervision or rehabilitation will be terminated. All records of the entity must be open to inspection upon the request of the county, the court, the Auditor General or agents thereof.

(4) A private entity that provides court-ordered services to offenders and that charges a fee for such services must register with the board of county commissioners in the county in which the services are offered. The entity shall provide the following information for each program it operates:

(a) The length of time the program has been operating in the county.

(b) A list of the staff and a summary of their qualifications.

(c) A summary of the types of services that are offered under the program.

(d) The fees the entity charges for court-ordered services and its procedures, if any, for handling indigent offenders.

(5)~~(3)~~ The private entity providing misdemeanor supervision services shall also comply with all other applicable provisions of law.

Section 43. Paragraph (a) of subsection (1) and subsection (2) of section 951.032, Florida Statutes, are amended to read:

951.032 Financial responsibility for medical expenses.—

(1) A county detention facility or municipal detention facility incurring expenses for providing medical care, treatment, hospitalization, or transportation may seek reimbursement for the expenses incurred in the following order:

(a) From the prisoner or person receiving medical care, treatment, hospitalization, or transportation *by deducting the cost from the prisoner's cash account on deposit with the detention facility. If the prisoner's*

cash account does not contain sufficient funds to cover medical care, treatment, hospitalization, or transportation, then the detention facility may place a lien against the prisoner's cash account or other personal property, to provide payment in the event sufficient funds become available at a later time. Any existing lien may be carried over to future incarceration of the same prisoner as long as the future incarceration takes place within the county originating the lien and the future incarceration takes place within 3 years of the date the lien was placed against the prisoner's account or other personal property.

(b) From an insurance company, health care corporation, or other source if the prisoner or person is covered by an insurance policy or subscribes to a health care corporation or other source for those expenses.

(2) A prisoner who receives medical care, treatment, hospitalization, or transportation shall cooperate with the county detention facility or municipal detention facility in seeking reimbursement under *paragraphs(1)(a) and* ~~paragraph (1)~~(b) for expenses incurred by the facility for the prisoner. A prisoner who willfully refuses to cooperate with the reimbursement efforts of the detention facility *may have a lien placed against the prisoner's cash account or other personal property and* may not receive gain-time as provided by s. 951.21.

Section 44. Section 951.12, Florida Statutes, is amended to read:

951.12 Working prisoners on public roads and exchange of prisoners between counties.—All persons confined in the county jail under sentence of a court may be worked on the roads of the county. In case the number of prisoners in any county at any time be less than five, the county commissioners of such county may arrange with the county commissioners of any other county for an exchange of prisoners. The county commissioners shall not be required to work the prisoners on the public roads when there is no contract between the counties as provided herein, nor when in their judgment the number of prisoners is insufficient to justify the employment of a *correctional officer* ~~guard~~ to work them.

Section 45. Section 951.19, Florida Statutes, is amended to read:

951.19 Interference with county prisoners.—Whoever shall interfere with county prisoners while at work, at their meals, at rest, or while going to and from their quarters or with the *correctional officers* ~~guards~~ in charge of them, either by assaulting them or by inciting them or attempting to incite the prisoners to disobedience, revolt, or escape, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083.

Section 46. Subsection (2) of section 951.23, Florida Statutes, is amended to read:

951.23 County and municipal detention facilities; definitions; administration; standards and requirements.—

(2) COLLECTION OF INFORMATION.—In conjunction with the administrators of county detention facilities, the Department of Corrections shall develop an instrument for the collection of information from the administrator of each county detention facility. Whenever possible, the information shall be transmitted by the administrator to the Department of Corrections electronically or in a computer readable format. The information shall be provided on a monthly basis and shall include, but is not limited to, the following:

(a) The number of persons housed *per day* ~~on the last day of the month by age, race, and sex,~~ who are:

1. Felons sentenced to cumulative sentences of incarceration of 364 days or less.

2. Felons sentenced to cumulative sentences of incarceration of 365 days or more.

3. Sentenced misdemeanants.

4. Awaiting trial on at least one felony charge.

5. Awaiting trial on misdemeanor charges only.

6. Convicted felons and misdemeanants who are awaiting sentencing.

~~7. Undocumented aliens.~~

7.~~8.~~ Juveniles.

8.~~9.~~ State parole violators.

9.~~10.~~ State inmates who were transferred from a state correctional facility, as defined in s. 944.02, to the county detention facility.

(b) The number of persons housed per day, admitted per month, and housed on the last day of the month, by age, race, sex, country of citizenship, country of birth, and immigration status classified as one of the following:

1. Permanent legal resident of the United States.

2. Legal visitor.

3. Undocumented or illegal alien.

4. Unknown status.

(c)~~(b)~~ The number of persons housed per day:

1. Pursuant to part I of chapter 394, "The Florida Mental Health Act."

2. Pursuant to chapter 397, "Substance Abuse Services."

(d)~~(c)~~ The cost per day for housing a person in the county detention facility.

(e)~~(d)~~ The number of persons admitted per month, *and the number of persons housed on the last day of the month,* by age, race, and sex, who are:

1. Felons sentenced to cumulative sentences of incarceration of 364 days or less.

2. Felons sentenced to cumulative sentences of incarceration of 365 days or more.

3. Sentenced misdemeanants.

4. Awaiting trial on at least one felony charge.

5. Awaiting trial on misdemeanor charges only.

6. Convicted felons and misdemeanants who are awaiting sentencing.

~~7. Undocumented aliens.~~

7.~~8.~~ Juveniles.

8.~~9.~~ State parole violators.

9.~~10.~~ State inmates who were transferred from a state correctional facility, as defined in s. 944.02, to the county detention facility.

(f)~~(e)~~ The number of persons admitted per month, by age, race, and sex:

1. Pursuant to part I of chapter 394, "The Florida Mental Health Act."

2. Pursuant to chapter 397, "Substance Abuse Services."

Section 47. Present subsections (1), (2), (3), (4), (5), (6), and (7) of section 957.06, Florida Statutes, 1994 Supplement, are redesignated as subsections (2), (3), (4), (5), (6), (7), and (8), respectively, and a new subsection (1) is added to that section, to read:

957.06 Powers and duties not delegable to contractor.—A contract entered into under this chapter does not authorize, allow, or imply a delegation of authority to the contractor to:

(1) Make a final determination on the custody classification of an inmate. The contractor may submit a recommendation for a custody change on an inmate; however, any recommendation made shall be in compliance with the department's custody classification system.

Section 48. Section 958.046, Florida Statutes, is created to read:

958.046 Placement in county-operated boot-camp programs for youthful offenders.—In counties where there are county-operated youthful offender boot-camp programs, other than boot camps described in s. 958.04 or s. 39.057, the court may sentence a youthful offender to such a boot camp. In county-operated youthful offender boot-camps programs, juvenile offenders or adult offenders shall not be commingled with youthful offenders.

Section 49. Section 958.11, Florida Statutes, 1994 Supplement, is amended to read:

958.11 Designation of institutions and programs for youthful offenders; assignment from youthful offender institutions and programs.—

(1) The department shall by rule designate separate institutions and programs for youthful offenders and shall employ and utilize personnel specially qualified by training and experience to operate all such institutions and programs for youthful offenders. Youthful offenders who are at least 14 years of age but who have not yet reached the age of 19 years *at the time of reception* shall be separated from youthful offenders who are 19 years of age or older, except that if the population of the facilities designated for 14-year-old to 18-year-old youthful offenders exceeds 100 percent of lawful capacity, the department may assign 18-year-old youthful offenders to the 19-24 age group facility.

(2) Youthful offender institutions and programs shall contain only those youthful offenders sentenced as such by a court or classified as such by the department, pursuant to the requirements of subsections (4) and (6). Female youthful offenders may continue to be housed at Florida Correctional Institution and Broward Correctional Institution until such time as a female youthful offender institution is established or adapted to accommodate all custody classifications.

(3) The department may assign a youthful offender to a facility in the state correctional system which is not designated for the care, custody, control, and supervision of youthful offenders *or an age group only* in the following circumstances:

(a) If the youthful offender is convicted of a new crime which is a felony under the laws of this state.~~;~~

(b) If the youthful offender becomes such a serious management or disciplinary problem resulting from serious violations of the rules of the department that his *original* assignment ~~to the youthful offender program~~ would be detrimental to the interests of the program and to other inmates committed thereto.~~;~~

(c) If the youthful offender needs medical treatment, health services, or other specialized treatment otherwise not available at the youthful offender facility.~~; or~~

(d) If the department determines that the youthful offender should be transferred outside of the state correctional system, as provided by law, for services not provided by the department.

(e) If bed space is not available in a designated community residential facility, the department may assign a youthful offender to a community residential facility, provided that the youthful offender is separated from other offenders insofar as is practical.

(f) If the youthful offender was originally assigned to a facility designated for 14-year-old to 18-year-old youthful offenders, but subsequently reaches the age of 19 years, the department may retain the youthful offender in the facility if the department determines that it is in the best interest of the youthful offender and the department.

(g) If the department determines that a youthful offender originally assigned to a facility designated for the 19-24 age group is mentally or physically vulnerable by such placement, the department may reassign a youthful offender to a facility designated for the 14-18 age group if the department determines that a reassignment is necessary to protect the safety of the youthful offender or the institution.

(h) If the department determines that a youthful offender originally assigned to a facility designated for the 14-18 age group is disruptive, incorrigible, or uncontrollable, the department may reassign a youthful offender to a facility designated for the 19-24 age group if the department determines that a reassignment would best serve the interests of the youthful offender and the department.

(4) The Office of the Assistant Secretary for Youthful Offenders shall continuously screen all institutions, facilities, and programs for any inmate who meets the eligibility requirements for youthful offender designation specified in s 958.04*(1)(a) and (c)* whose age does not exceed 24 years and whose total length of sentence does not exceed 10 years, and the department may classify and assign as a youthful offender any inmate who meets the criteria of this subsection.

(5) The Population Movement and Control Coordinator shall coordinate all youthful offender assignments or transfers and shall consult with the Office of the Assistant Secretary for Youthful Offenders. The Office of the Assistant Secretary for Youthful Offenders shall review and maintain access to full and complete documentation and substantiation of all such assignments or transfers of youthful offenders to or from facilities in the state correctional system which are not designated for their care, custody, and control, except assignments or transfers made pursuant to paragraph (3)(c).

(6) The department may assign to a youthful offender facility any inmate, except a capital or life felon, whose age does not exceed 19 years but who does not otherwise meet the criteria of this section, if the Assistant Secretary for Youthful Offenders determines that such inmate's mental or physical vulnerability would substantially or materially jeopardize his safety in a nonyouthful offender facility. ~~Monthly reports on~~ Assignments made under this subsection shall be *included in the department's annual report* ~~provided to the President of the Senate and the Speaker of the House of Representatives~~.

Section 50. Sections 950.051, 950.07, and 950.08, Florida Statutes, are repealed.

Section 51. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to corrections; amending s. 68.07, F.S.; prohibiting name change for petitioners with suspended civil rights; amending s. 95.11, F.S., relating to limitations on actions; prescribing a time limitation with respect to court actions by inmates challenging disciplinary proceedings conducted by the Department of Corrections; amending s. 112.19, F.S., relating to death benefits for law enforcement, correctional, and correctional probation officers; removing requirement that death must occur within a specified period as a condition for eligibility for benefits; amending s. 117.10, F.S.; providing that correctional probation officers are notaries public while on duty; amending s. 282.1095, F.S.; adding a sixth member to the Joint Task Force on State Agency Law Enforcement Communications; amending and renumbering s. 381.695, F.S.; providing a certificate of need for any departmental health care facilities; correcting cross-references; amending s. 776.07, F.S.; redefining the term "guard" as "correctional officer"; amending s. 843.04, F S.; redefining the term "guards" as "correctional officers"; amending s. 843.08, F.S.; providing that falsely personating an officer of the Department of Corrections or a correctional probation officer is a felony; amending s. 921.16, F.S.; providing for imposing a sentence concurrently with another jurisdiction; providing for the sheriff to forward commitment papers and other documents; providing for coterminous sentence with a sentence in another jurisdiction; providing for prevention of interference with inmate program participation approved by another jurisdiction; amending s. 922.11, F.S.; redefining the term "guards" as "correctional officers"; amending s. 943.10, F.S.; defining the term "auxiliary correctional probation officer"; amending s. 943.1397, F.S.; providing for officer certification examination procedures; creating s. 944.06, F.S.; providing for reimbursing department employees for damage to personal vehicles; creating s. 944.151, F.S.; providing legislative intent with respect to security of correctional institutions; requiring the appointment of a security review committee by the Secretary of Corrections; prescribing membership and duties of the security review committee; requiring physical inspections; mandating security audits; specifying minimum standards and policies; requiring escape simulation drills; requiring statistical reports; providing for adoption of emergency escape response procedures; amending s. 944.39, F.S.; redefining the term "guard" as "correctional officer"; amending s. 944.095, F.S.; providing legislative intent for siting additional correctional facilities; deleting reference to statewide comprehensive study to determine future facility needs; amending s. 944.11, F.S.; requiring the department to regulate the admission of materials or publications depicting certain sexual conduct or nudity and authorizing the department to prohibit such materials at a particular facility upon certain findings; amending s. 944.516, F.S.; providing for transfer of inmate fund balances of less than $1 to Inmate Welfare Trust Fund; amending s. 944.606, F.S.; authorizing public agencies to publicly release verified information about persons found to have committed a sexual offense; granting immunity from civil action to public agencies, officers, and employees who release verified information about persons found to have committed a sexual offense; amending s. 944.703, F.S.; providing for applicability of the Transition Assistance Release Program Act to all inmates released from the custody of the department; amending s. 944.704, F.S.; requiring the department to provide transition assistance officers at major correctional institutions; amending s. 944.706, F.S.; removing references to release assistance; providing for transition assistance; amending s. 944.707, F.S.; revising provi-

sions relating to the provision to the Department of Labor and Employment Security of information on releasees; creating s. 945.03, F.S.; providing definitions; providing for the adoption of department rules prohibiting hiring of employee relatives; amending s. 945.04, F.S.; providing guidelines for assignment of inmates to correctional work programs; providing guidelines for removing inmates from correctional work programs; amending s. 945.091, F.S.; providing authorization to the secretary's designee for approval of extension of limits of confinement; requiring the department to implement a plan by December 1, 1995, for inmate labor wearing leg irons in chain-gang work groups; creating s. 945.092, F.S.; prohibiting work release or minimum security confinement for offenders convicted of escape; amending s. 945.27, F.S., relating to eminent domain proceedings by the department; creating s. 945.28, F.S.; requiring the department to provide public notice prior to the lease or purchase of probation or parole office space; providing for the inclusion of a telephone number so that the general public may communicate with the department with respect to the proposed lease or purchase; amending s. 945.31, F.S.; providing for the establishment of bank accounts for collecting and disbursing restitution and other court-ordered payments; amending s. 945.6037, F.S.; authorizing the department to waive an inmate's copayment for certain additional health care services; amending s. 946.006, F.S.; deleting an obsolete provision; providing for workers' compensation coverage of inmates in certain work programs to be provided by the private-sector employer; providing legislative intent with respect to prison industry programs; creating s. 946.41, F.S.; authorizing promotion to the public of inmate work programs; amending s. 946.515, F.S.; authorizing the corporation to contract with any political subdivision of the state to operate a fish and seafood processing plant and spawn and grow fish and seafood for certain commercial purposes; revising exemption provision with respect to state purchases of specified commodities or contractual services; amending s. 947.01, F.S.; decreasing the membership of the Parole Commission after a specified date; amending s. 947.141, F.S., relating to violations of conditional release, control release, or conditional medical release; authorizing the Parole Commission panel to place released offenders who commit such violations in local detention facilities as a condition of supervision; providing guidelines and time limits with respect to such placements; providing for specified reimbursements by the Department of Corrections pursuant to contractual agreement with the chief correctional officer of the county; providing applicability; amending s. 948.09, F.S.; providing for restitution payments by department of not less than $10; amending s. 948.15, F.S.; providing for probation services to be provided by entities under the supervision of the governing body of the county or the court; requiring certain entities that provide probation services to register with the governing body of the county; amending s. 951.032, F.S.; providing that prisoners shall reimburse providers for medical care, treatment, hospitalization, or transportation; providing for placing a lien against inmate's cash account or personal property if inmate refuses to reimburse provider for medical care, treatment, hospitalization, or transportation; amending s. 951.12, F.S.; redefining the term "guard" as "correctional officer"; amending s. 951.19, F.S.; redefining the term "guards" as "correctional officers"; amending s. 951.23, F.S.; providing for collection of inmate information; providing for inmate immigration status information; amending s. 957.06, F.S.; prohibiting the department from delegating the authority to a contractor to determine the custody classification of an inmate; creating s. 958.046, F.S.; authorizing courts to sentence youthful offenders to county-operated youthful offender boot-camp programs; prohibiting the commingling of juvenile offenders or adult offenders with youthful offenders in such boot camps; amending s. 958.11, F.S; providing circumstances under which the department may reassign or maintain a youthful offender in a facility not designated for that offender; eliminating reporting requirements; repealing s. 950.051, F.S., relating to jail construction for purposes of gender separation of prisoners; repealing s. 950.07, F.S., relating to county appropriations for jail remodeling for such gender separation; repealing s. 950.08, F.S., relating to removal of county commissioners and sheriffs for refusal to comply with provisions for gender separation of prisoners; providing effective dates.

Senator Burt moved the following amendments to **Amendment 1** which were adopted:

Amendment 1A (with Title Amendment)—On page 45, line 9, strike "or adult offenders"

And the title is amended as follows:

In title, on page 55, line 8, strike "or adult offenders"

Amendment 1B (with Title Amendment)—On page 48, between lines 18 and 19, insert:

Section 51. Subsections (1) and (2) and paragraph (a) of subsection (7) of section 943.325, Florida Statutes, 1994 Supplement, are amended, and a new subsection (8) is added to said section, to read:

943.325 Blood specimen testing for DNA analysis.—

(1)(a) Any person convicted, *or who was previously convicted and is still incarcerated,* in this state ~~on or after January 1, 1990,~~ of any offense or attempted offense defined in chapter 794, ~~relating to sexual battery, or of any offense or attempted offense under~~ chapter 800, *s. 782.04, s. 784.045, s. 812.133, or s. 812.135, and who is within the confines of the legal state boundaries* ~~relating to lewd and lascivious conduct~~, shall, ~~upon conviction,~~ be required to submit two specimens of blood to a Department of Law Enforcement designated testing facility as directed by the department.

(b) *For the purpose of this section, the term "any person" shall include both juveniles and adults committed to or under the supervision of the Department of Corrections or the Department of Juvenile Justice.* ~~Any person convicted in this state on or after July 1, 1993, of any offense or attempted offense described in s. 782.04, relating to murder, shall, upon conviction, be required to submit two specimens of blood to a testing facility as directed by the department.~~

(2) The withdrawal of blood for purposes of this section shall be performed in a medically approved manner and only under the *supervision* ~~direction~~ of a physician, registered nurse, licensed practical nurse, or duly licensed *medical personnel* ~~clinical laboratory technician~~.

(7) The Department of Law Enforcement shall:

(a) Receive, process, and store blood samples and the data derived therefrom furnished pursuant to subsection (1) *or pursuant to a requirement of supervision imposed by the court or the Parole Commision with respect to a person convicted of any offense specified in subsection (1).*

(8)(a) The court shall include in the judgment of conviction for an offense specified in this section, or a finding that a person described in subsection (1) violated a condition of probation, community control, or any other court-ordered supervision, an order stating that blood specimens are required to be drawn by the appropriate agency and, unless the convicted person lacks the ability to pay, the person shall reimburse the appropriate agency for the cost of drawing and transmitting the blood specimens to the Florida Department of Law Enforcement. The reimbursement payment may be deducted from any existing balance in the inmates's bank account. If the account balance is insufficient to cover the cost of drawing and transmitting the blood specimens to the Florida Department of Law Enforcement, 50 percent of each deposit to the account must be withheld until the total amount owed has been paid. If the judgment places the convicted person on probation, community control, or any other court-ordered supervision, the court shall order the convicted person to submit to the drawing of the blood specimens as a condition of the probation, community control, or other court-ordered supervision. For the purposes of a person who is on probation, community control, or any other court-ordered supervision, the collection requirement must be based upon a court order. If the judgment sentences the convicted person to time served, the court shall order the convicted person to submit to the drawing of the blood specimens as a condition of such sentence.

(b) The appropriate agency shall cause the specimens to be drawn as soon as practical after conviction but, in the case of any person ordered to serve a term of incarceration as part of the sentence, the specimen shall be drawn as soon as practical after the receipt of the convicted person by the custodial facility. For the purpose of this section, the appropriate agency shall be the Department of Corrections whenever the convicted person is committed to the legal and physical custody of the department. Conviction information contained in the offender information system of the Department of Corrections shall be sufficient to determine applicability under this section. The appropriate agency shall be the sheriff or officer-in-charge of the county correctional facility whenever the convicted person is placed on probation, community control, or any other court-ordered supervision or form of supervised release or is committed to the legal and physical custody of a county correctional facility.

(c) Any person previously convicted of an offense specified in this section, or a crime which, if committed in this state, would be an offense specified in this section, and who is also subject to the registration requirement imposed by s. 775.13 shall be subject to the collection requirement of this section when the appropriate agency described in this section verifies the identification information of the person. The collection requirement of this section does not apply to a person as described in s. 775.13(5).

(d) For the purposes of this section, conviction shall include a finding of guilty, or entry of a plea of nolo contendere or guilty, regardless of adjudication or, in the case of a juvenile, the finding of delinquency.

(e) If necessary, the state or local law enforcement or correctional agency having authority over the person subject to the sampling under this section shall assist in the procedure. The law enforcement or correctional officer so assisting may use reasonable force if necessary to require such person to submit to the withdrawal of blood. The withdrawal shall be performed in a reasonable manner.

Section 52. Subsections (9) and (10) are added to section 948.03, Florida Statutes, 1994 Supplement, to read:

948.03 Terms and conditions of probation or community control.—

(9) As a condition of probation, community control, or any other court-ordered community supervision, the court shall order persons convicted of offenses specified in s. 943.325 to submit to the drawing of the blood specimens as prescribed in that section as a condition of the probation, community control, or other court-ordered community supervision. For the purposes of this subsection, conviction shall include a finding of guilty, or entry of a plea of nolo contendere or guilty, regardless of adjudication, or, in the case of a juvenile, the finding of delinquency.

(10) Any order issued pursuant to subsection (9) shall also require the convicted person to reimburse the appropriate agency for the costs of drawing and transmitting the blood specimens to the Florida Department of Law Enforcement.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 55, line 22, after the semicolon (;) insert: amending s. 943.325, F.S., relating to blood specimen testing of criminals for DNA analysis; revising requirements for submission of blood specimens by persons convicted of specified offenses or attempted offenses; defining those persons subject to such requirements; providing for reimbursement by inmate of costs of drawing blood specimens; providing for supervision of such blood testing; prescribing court authority, powers, and duties of custodial facilities and appropriate agencies, and guidelines and time limits with respect to such blood testing; permitting the use of reasonable force under specified circumstances; amending s. 948.03, F.S.; providing for orders requiring specified offenders to submit to blood testing as a condition of probation, community control, or other community supervision; providing for court-ordered reimbursement by convicted person of costs of drawing blood specimens;

Senator Johnson offered the following amendment to **Amendment 1** which was moved by Senator Burt and adopted:

Amendment 1C (with Title Amendment)—On page 40, between lines 8 and 9, insert:

Section 43. Section 948.51, Florida Statutes, 1994 Supplement, as amended by section 6 of chapter 94-265, Laws of Florida, is amended to read:

948.51 Community corrections assistance to counties *or county consortiums.*—

(1) LEGISLATIVE INTENT.—The purpose of this section is to:

(a) Divert nonviolent offenders from the state prison system by punishing such offenders with community-based sanctions, thereby reserving the state prison system for those offenders who are deemed to be most dangerous to the community.

(b) Forge a partnership between *the* state and *the* ~~county~~ correctional and public safety programs and facilities *within a county or consortium of counties* so that state funds may be effectively contractually disbursed to counties *or county consortiums* to build and operate corrections and public safety programs.

(c) Promote accountability of offenders to their community by requiring financial restitution to victims of crime and by requiring public service to be performed for local governments and community agencies.

(d) Make victim restitution a greater priority and provide closer monitoring of offenders to ensure payment to victims.

(e) Maintain safe and cost-efficient community correctional programs *that* ~~which~~ also require supervision and counseling, and substance abuse testing, assessment, and treatment of appropriate offenders.

(f) Provide~~, through the development of~~ sanctions, services, ~~and~~ treatment, *and* alternative punishments *that* ~~which~~ are available *to* ~~for~~ the judge at sentencing and for pretrial intervention.

(g) Reduce, for contracting counties *and county consortiums,* both the percentage of nonviolent felony offenders committed to the state prison system and the percentage of nonviolent misdemeanants committed to the county detention system by punishing such offenders within the community or by requiring them to reside within community-based facilities.

(h) Require nonviolent offenders to meet their community obligations by maintaining employment, thereby providing resources for their families, service to the community, and payment for their cost of supervision and treatment.

(i) Extend the average length of *supervision and commitment to a correctional program* ~~incarceration~~ for those sentenced to community corrections programs beyond the actual time *that* ~~which~~ they would have *received* ~~served~~ at the state level.

(2) ELIGIBILITY OF COUNTIES *AND COUNTY CONSORTIUMS.*—A county, *or a consortium of two or more counties,* may contract with the Department of Corrections for community corrections funds as provided in this section. In order to enter into a community corrections partnership contract, a county *or county consortium* must have a public safety coordinating council *established under s. 951.26* and *must* ~~shall~~ designate a county officer or agency to be responsible for administering community corrections funds received from the state. The public safety coordinating council shall prepare, develop, and implement a comprehensive ~~county~~ public safety plan *for the county, or the geographic area represented by the county consortium,* and shall submit an annual report to the Department of Corrections concerning the status of the program. *In preparing the comprehensive public safety plan, the public safety coordinating council shall cooperate with the district juvenile justice board and the county juvenile justice council, established under s. 39.025, in order to include programs and services for juveniles in the plan.* To be eligible for community corrections funds under the contract, *the* ~~a county's~~ initial public safety plan must be approved by the governing board of the county, *or the governing board of each county within the consortium,* and the Secretary of ~~the Department of~~ Corrections based on the requirements of this section. *If* ~~A county may cooperate with~~ one or more other counties *develop* ~~in developing~~ a unified public safety plan, *the public safety coordinating council shall* ~~and may~~ submit a single application to the department for funding. Continued contract funding shall be pursuant to subsection (6). The plan *for a county or county consortium must* ~~shall~~ cover at least a 5-year period and *must* ~~shall~~ include:

(a) A description of programs offered for the job placement and treatment of offenders in the community.

(b) A specification of community-based intermediate sentencing options to be offered and the types and number of offenders to be included in each program.

(c) Specific goals and objectives for reducing the projected percentage of commitments to the state prison system of persons with *sentencing scores of 40 to 52 points, inclusive,* ~~presumptive sentences of 22 months or less~~ pursuant to the sentencing guidelines.

(d) Specific evidence of the population status of all programs which are part of the plan, which evidence establishes that such programs do not include offenders who otherwise would have been on a less intensive form of community supervision.

~~(e) The monthly assessment of population status by the county public safety coordinating council of all probation programs owned, operated, or contracted for by the county, including county residential probation programs.~~

(e)~~(f)~~ The assessment of population status by the ~~county~~ public safety coordinating council of all correctional facilities owned or contracted for by the county *or by each county within the consortium.*

(f)~~(g)~~ The assessment of bed space that is available for substance abuse intervention and treatment programs and the assessment of offenders in need of treatment who are committed to *each* ~~any~~ correctional facility owned or contracted for by the county *or by each county within the consortium.*

~~(h) A projection of needs for both the construction of county detention facilities and the development of offender diversionary programs.~~

~~(i) Annual performance measures that establish whether a participating county complies with its approved comprehensive county correctional plan.~~

~~(j) A plan for ongoing involvement and education of the community as to the purposes and accomplishments of the community corrections programs, including, but not limited to, their impact on recommitment.~~

~~(k) Verification by the county public safety coordinating council that the current percentage of spending levels for county correctional efforts have not been and will not be reduced by community corrections funds which may be received from the state.~~

(g)~~(l)~~ A description of program costs and sources of funds for each community corrections program, including community corrections funds, loans, state assistance, and other financial assistance.

(3) DEPARTMENTAL RESPONSIBILITIES.—The Department of Corrections shall ~~have the following powers, duties, and authority~~:

(a) Administer this section within the goals and mandates of this legislation.

(b) Report by January 1 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives *on* the effectiveness of participating counties *and county consortiums* in diverting nonviolent offenders from the state prison system.

(c) *Establish, in cooperation with the governing bodies of counties and municipalities and with school boards, a program to* provide technical assistance, *education,* and training to local governments, nonprofit entities and agencies, and ~~county~~ public safety coordinating councils regarding community corrections and the provisions of this section.

(d) Develop minimum standards, policies, and administrative rules for the statewide implemention of this section.

(e) Develop and implement a community corrections partnership contract process and procedure.

(f) Review community public safety plans and provide contract funding.

(g) Conduct a review, as often as necessary but not less than annually, of all program measures, to ensure program accountability.

(4) PURPOSES OF COMMUNITY CORRECTIONS FUNDS.—

(a) The Secretary of Corrections may contract for the issuance of community corrections assistance funds, as appropriated by the Legislature, to an eligible contracting county *or county consortium* for the purposes of:

1. Providing community-based corrections programs within county-owned or county-contracted residential probation programs.

2. Providing nonincarcerative diversionary programs, *including pretrial release programs,* for juvenile offenders or adult offenders who would otherwise be housed in a county detention facility, a state juvenile detention facility, or a state correctional institution.

3. Providing community-based drug treatment programs, both outpatient and residential, by licensed providers.

4. Funding costs for the enhancement of programs within county detention facilities.

5. Funding costs for the enhancement of public safety and crime prevention programs.

(b) Programs, services, and facilities that may be funded under this section include, but are not limited to:

1. Programs providing pretrial services.

2. Specialized divisions within the circuit or county court established for the purpose of hearing specific types of cases, such as drug cases or domestic-violence cases.

3. Work camps.

4. Programs providing intensive probation supervision.

5. Military-style bootcamps.

6. Work-release facilities.

7. Centers to which offenders report during the day.

8. Restitution centers.

9. Inpatient or outpatient programs for substance abuse treatment and counseling.

10. Vocational and educational programs.

(c) The application and contract submitted to the department by the public safety coordinating council may include provisions for funding the anticipated costs of providing health care to offenders placed in a program or facility funded under this section.

(d)~~(b)~~ Upon the award of community corrections assistance funds, the department shall disburse one-third of the funds for provision of the services described above and shall thereafter disburse the remaining funds on a quarterly basis.

(e)~~(c)~~ Except as provided *in this paragraph* ~~herein~~, contracting counties *or county consortiums* may not use any community corrections assistance funds for any of the following purposes:

1. Fixed capital outlay in construction, addition, renovation, or operation of any adult or juvenile secure detention facility;

2. Construction, addition, renovation, or operation of any state facility; or

3. Salary of any state probation and parole officer.

However, community corrections assistance funds may be used to acquire, renovate, and operate county-owned residential probation facilities or programs.

~~(5) LEVEL OF SPENDING.—~~

~~(a) A contracting county may not diminish its previous year level of spending for county correctional or public safety expenses to the extent of any community corrections assistance funds received pursuant to this section. Community corrections assistance funds pursuant to this section are enhancements, not replacements, for existing county programs and expenses. Failure to comply with this requirement shall be grounds to revoke a contract or deny a community corrections assistance funds application.~~

~~(b) Community corrections assistance funds may only be used for those purposes described in subsection (4) and must be additional to the percentage of county funds currently being expended for such purposes.~~

(5)~~(6)~~ CONTINUED CONTRACT FUNDING.—In order to remain eligible for continued contract funding, a contracting county *or county consortium* must substantially comply with the goals, standards, and objectives set forth in its comprehensive ~~county~~ public safety plan and with the standards established in this section. Each contracting county *or county consortium* shall participate with the Department of Corrections in an evaluation of its program effectiveness in a format to be determined by the department, with particular emphasis placed upon attainment of the goals specified in paragraphs (2)(c) and (d). *The department is responsible for the costs of performing the evaluation. If the department determines that a county or county consortium, in the course of its regular business and recordkeeping practices, is unable, without additional funds, to comply with the department's request for information necessary to perform an evaluation, the department shall reimburse reasonable additional recordkeeping expenses incurred by the county or county consortium during the evaluation process.*

(6)~~(7)~~ NONCOMPLIANCE WITH PLAN.—If the Secretary of ~~the Department of~~ Corrections determines that there are reasonable grounds to believe that a contracting county *or county consortium* is not substantially complying with its plan or with the standards established in this section, the secretary shall give 30 days' written notice to the governing board of the county, *or the governing board of each county within the consortium,* and the chair of the ~~county~~ public safety coordinating council. If the secretary then finds noncompliance by such contracting county *or county consortium,* the secretary shall require the governing board of the county, *or the governing board of each county within the consortium,* to provide a written agreement as to how and when the specific deficiencies identified by the secretary will be corrected. If no such agreement is submitted to the secretary within the time limit specified, or if such deficiencies are not corrected within 45 days after such an agreement has been approved by the secretary, the secretary may suspend any part or all of the funding until compliance is achieved.

(7)~~(8)~~ ALLOCATION OF FUNDS.—The department shall allocate the funding for these contracts to counties *and county consortiums* to the extent authorized in the General Appropriations Act.

(8)~~(9)~~ For the purposes of this section, the term "public safety" does not include the investigative, patrol, or administrative activities of a law enforcement agency.

Section 44. Section 951.26, Florida Statutes, is amended to read:

951.26 ~~County~~ Public safety coordinating councils.—

(1) Each *board of county commissioners* ~~county~~ shall *establish* ~~have~~ a county public safety coordinating council *for the county or shall join with a consortium of one or more other counties to establish a public safety coordinating council for the geographic area represented by the member counties.*

(a)1. The public safety coordinating council for a county shall consist ~~consisting~~ of:

a. The state attorney, or *an* ~~his designated~~ assistant state attorney *designated by the state attorney.*~~;~~

b. The public defender, or *an* ~~his designated~~ assistant public defender *designated by the public defender.*~~;~~

c. The chief circuit judge, or another circuit judge *designated by the chief circuit judge.* ~~as his designee,~~

d. The chief county judge, or another county judge *designated by the chief county judge.* ~~as his designee,~~

e. The chief correctional officer.~~;~~

f. The sheriff, or *a member designated by the sheriff,* ~~his designee~~ if the sheriff is not ~~designated as~~ the chief correctional officer.~~;~~

g. The state probation circuit administrator, or *a member designated by the state probation circuit administrator, to be appointed to a 4-year term.* ~~his designee, and~~

h. The chairman of the board of county commissioners, or another county commissioner as designee.

i. ~~In addition,~~ If the county has such program available, ~~the council must include~~ the director of any county probation or pretrial intervention program, *to be appointed to a 4-year term.*

j. ~~The council shall also include~~ The director of a local substance abuse treatment program, or *a member designated by the director, to be appointed to a 4-year term.*

k. ~~his designee, and may include~~ Representatives from county and state jobs programs and other community groups who work with offenders and victims, ~~as~~ appointed by the chairman of the board of county commissioners *to 4-year terms.*

2. The *chairperson* ~~chairman~~ of the board of county commissioners, or another county commissioner as designee, shall serve as the *chairperson* ~~chairman~~ of the council~~,~~ until ~~such time as~~ the council elects a *chairperson* ~~chairman~~ from the membership of the council.

(b)1. The public safety coordinating council for a consortium of two or more counties shall consist of the following members, appointed with the approval of each board of county commissioners within the consortium:

a. A chief circuit judge, or a circuit judge designated by a chief circuit judge.

b. A chief county judge, or a county judge designated by a chief county judge.

c. A state attorney, or an assistant state attorney designated by a state attorney.

d. A public defender, or an assistant public defender designated by a public defender.

e. A state probation circuit administrator, or a member designated by a state probation circuit administrator, to be appointed to a 4-year term.

f. A physician who practices in the area of alcohol and substance abuse, to be appointed to a 4-year term.

g. A mental health professional who practices in the area of alcohol and substance abuse, to be appointed to a 4-year term.

h. A sheriff or a jail administrator for a county within the consortium.

i. A chief of police for a municipality within the geographic area of the consortium.

j. A county commissioner from each member county of the consortium.

k. An elected member of the governing body of the most populous municipality within the geographic area of the consortium.

l. An elected member of a school board within the geographic area of the consortium.

2. The members of the public safety coordinating council shall elect a chairperson from among its members.

(2) The council shall meet at the call of the *chairperson* ~~chairman~~ for the purpose of assessing the population status of all detention or correctional facilities owned or contracted by the county, *or the county consortium,* and formulating recommendations to ensure that the authorized capacities of such facilities, as established by the Department of Corrections, are not exceeded. Such recommendations shall include an assessment of the availability of pretrial intervention or probation programs, work-release programs, substance abuse programs, gain-time schedules, applicable bail bond schedules, and the confinement status of the inmates housed within each facility owned or contracted by the county, *or the county consortium.*

(3)(a) The council may also develop a local public safety plan for future construction needs. ~~The components of~~ The plan *must* ~~shall~~ cover at least a 5-year period. The plan may be submitted for consideration to the local planning agency for the county, *or the planning agency for each county within the consortium,* at least 120 days before the adoption of *or amendment to* the comprehensive plan for the county by the local planning agency pursuant to *part II of chapter 163* ~~s. 163.3184~~.

(b) Each county, *or county consortium, that* ~~which~~ contracts to receive community corrections funds for its community corrections programs *under* ~~pursuant to~~ s. 948.51 shall require the ~~county~~ public safety coordinating council to develop a comprehensive ~~county~~ public safety plan as described therein which includes the future public safety construction needs as described in paragraph (a) of this subsection.

(4) All meetings of a ~~county~~ public safety coordinating council, as well as its records, books, documents, and papers, are open and available to the public in accordance with ss. 119.07 and 286.011.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 54, line 17, after the semicolon (;) insert: amending s. 948.51, F.S.; revising the Community Corrections Partnership Act to allow two or more counties to form a consortium and receive funds for corrections and public safety programs; requiring the formation of a public safety coordinating council to prepare a comprehensive public safety plan; requiring the public safety coordinating council to cooperate with the district juvenile justice board and the county juvenile justice council; revising the requirements of the comprehensive public safety

plan; providing additional responsibilities of the Department of Corrections in administering the act; deleting a limitation on the amount that a county may diminish its spending for correctional and public safety programs; requiring the department to reimburse certain expenses incurred by a county in performing an evaluation; specifying additional programs, services, and facilities that may be funded under the act; providing for funding the costs of health care for offenders placed in programs or facilities operated under the act; amending s. 951.26, F.S.; revising the membership of a public safety coordinating council for a county; providing for the membership of a public safety coordinating council for a consortium of two or more counties;

Senator Burt moved the following amendment to **Amendment 1** which was adopted:

Amendment 1D—On page 35, strike all of lines 7-18 and insert:

Section 39. Effective October 6, 1995, subsection (1) of section 947.01, Florida Statutes, is amended to read:

947.01 Parole Commission; creation; number of members.—

(1)(a) A Parole Commission is created to consist of *six* ~~nine~~ members who are residents of the state.

(b) Effective *October 6, 1995* ~~July 1, 1990~~, the membership of the commission shall be *seven appointed* ~~nine~~ members ~~and appointment shall be made pursuant to s. 947.02(3)~~. *After October 6, 1995, upon the first vacant seat occurring, for any reason other than expiration of term, the membership shall be reduced to six.*

Senators Crist, Wexler and Harden offered the following amendment to **Amendment 1** which was moved by Senator Crist and adopted:

Amendment 1E—On page 29, strike all of lines 15 and 16 and insert: groups.

Senator Burt moved the following amendment to **Amendment 1** which was adopted:

Amendment 1F (with Title Amendment)—On page 48, between lines 18 and 19, insert:

Section 50. Section 775.21, Florida Statutes, is amended to read:

775.21 The Florida Sexual Predators Act; legislative findings and intent.—

(1) SHORT TITLE.—This act may be cited as "The Florida Sexual Predators Act."

(2) LEGISLATIVE FINDINGS.—The Legislature finds that:

(a) Sex offenders are extremely likely to use physical violence and to repeat their offenses, and most sex offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sex offender victimization to society at large, while incalculable, clearly exorbitant.

(b) The high level of threat that a violent or repeat sex offender presents to the public safety, and the long-term effects that sex offenses cause victims, provide the state with sufficient justification to design and implement innovative mechanisms as part of a strategy to achieve a significant reduction in the commission of violent and repeat sex offenses, a strategy that includes:

1. Maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space.

2. Providing an adequate number of well-trained probation officers to ensure that sexual predators are released into the community under supervision.

3. Postincarceration supervision for the sexual predator population, implemented at the time of release from incarceration, with a requirement that those who are financially able must pay all or part of the costs of supervision.

4. Supervision of sexual predators who are released into the community, by probation officers with low caseloads, with terms and conditions which may include electronic monitoring *and which must include the special conditions as required in s. 947.1405(7).*

5. Registration of sexual predators, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities.

(c) The public is not adequately protected from violent or repeat sex offenses. The nature of sex offenses, the devastation to the victims, the likelihood of violent and repeat offenses, and the costs of victimization are compelling reasons to focus state resources on addressing the problem of sexual predators.

(d) The state has a compelling interest in protecting the public from serious sex offenses.

(3) LEGISLATIVE INTENT.—It is the intent of the Legislature to address the problem of sexual predators by providing probation officers with low caseloads *and special conditions* pursuant to the conditional release program, and requiring registration and the maintenance of access by law enforcement to locator and other registration information.

Section 51. Subsection (2) of section 775.22, Florida Statutes, is amended to read:

775.22 Sexual predator registration; requirements, procedure, and penalties.—

(2) REGISTRATION CRITERIA.—Each offender who is convicted, on a current offense committed on or after October 1, 1993, of, or is found to have committed, regardless of adjudication, or pleads guilty or nolo contendere to:

(a) Any capital, life, or first degree felony violation of chapter 794 or s. 847.0145, or of a similar law of another jurisdiction; or

(b) Any second degree or greater felony violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, or of a similar law of another jurisdiction, and who has previously been convicted of or found to have committed, regardless of adjudication, or has pled nolo contendere or guilty to, any violation of s. 794.011(2), (3), (4), ~~or~~ (5), *or (8)*, s. 794.023, ~~s. 794.041(2)(a) or (b),~~ s. 800.04, s. 827.071, s. 847.0133, or s. 847.0145, or of a similar law of another jurisdiction, is a sexual predator and must register or be registered in accordance with this section.

Section 52. Section 775.23, Florida Statutes, is amended to read:

775.23 Sexual predators.—

(1) LEGISLATIVE FINDINGS AND PURPOSE.—The Legislature finds that repeat sex offenders and sex offenders who use physical violence are sexual predators who present an extreme threat to the public safety and that these offenders must be subject to *intensive specialized* supervision *under conditions as required in s. 947.1405(7)* upon release from incarceration.

(2) DEFINITION.—As used in this section, "sexual predator" means an offender who is convicted on the current offense of or is found to have committed, regardless of adjudication, or who pleads nolo contendere or guilty to:

(a) Any capital, life, or first degree felony violation of chapter 794 or s. 847.0145, or of a similar law of another jurisdiction; or

(b) Any second degree or greater felony violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, or of a similar law of another jurisdiction, and who has previously been convicted of or found to have committed, regardless of adjudication, or has pled nolo contendere or guilty to, any violation of s. 794.011(2), (3), (4), ~~or~~ (5), *or (8)*, s. 794.023, ~~s. 794.041(2)(a) or (b),~~ s. 800.04, s. 827.071, s. 847.0133, or s. 847.0145, or of a similar law of another jurisdiction.

(3) FINDING.—Upon sentencing an offender who meets the definition of paragraph (a) or paragraph (b) of subsection (2), when the current offense was committed on or after October 1, 1993, the court shall make a written finding that the offender is a sexual predator.

Section 53. Subsection (6) of section 947.1405, Florida Statutes, 1994 Supplement, is amended, and a new subsection (7) is added to said section, to read:

947.1405 Conditional release program.—

(6) Upon receipt of notice as required under s. 947.175, the commission shall conduct a review of the inmate's record for the purpose of establishing the terms and conditions of the conditional release. The

commission may impose any special conditions it considers warranted from its review of the record. If the commission determines that the inmate is eligible for release under this section, the commission shall enter an order establishing the length of supervision and the conditions attendant thereto. However, an inmate who has been convicted of a violation of chapter 794 or found by the court to be a sexual predator is subject to the maximum level of supervision provided, *with the mandatory conditions as required in subsection (7)*, and that supervision shall continue through the end of the releasee's original court-imposed sentence. The length of supervision must not exceed the maximum penalty imposed by the court.

(7) Any inmate who is convicted of a crime committed on or after October 1, 1995, or has been previously convicted of a crime committed on or after October 1, 1995, and who meets the criteria of s. 775.23(2)(a) or (b) shall have, in addition to any other conditions imposed, the following special conditions imposed by the commission:

(a) A curfew, if appropriate, during hours set by the commission.

(b) If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, or other place where children regularly congregate.

(c) Active participation in and successful completion of a sex offender treatment program, at the releasee's own expense, unless one is not available within a 50-mile radius of the releasee's residence.

(d) A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the commission.

(e) If the victim was under the age of 18, a prohibition, until successful completion of a sex offender treatment program, on unsupervised contact with a child under the age of 18, unless authorized by the commission without another adult present who is responsible for the child's welfare, has been advised of the crime, and is approved by the commission.

(f) If the victim was under age 18, a prohibition on working for pay or as a volunteer at any school, day care center, park, playground, or other place where children regularly congregate, as prescribed by the commission.

(g) Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, a prohibition on viewing, owning, or possessing any obscene, pornographic, or sexually explicit material.

(h) A requirement that the releasee must submit two specimens of blood to the Florida Department of Law Enforcement to be registered with the DNA data bank.

Section 54. For the purpose of incorporating the amendment to section 947.1405, Florida Statutes, in a reference thereto, subsections (1) and (2) of section 947.141, Florida Statutes, 1994 Supplement, are reenacted to read:

947.141 Violations of conditional release, control release, or conditional medical release.—

(1) If a member of the commission or a duly authorized representative of the commission has reasonable grounds to believe that an offender who is on release supervision under s. 947.1405, s. 947.146, or s. 947.149 has violated the terms and conditions of the release in a material respect, such member or representative may cause a warrant to be issued for the arrest of the releasee; if the offender was found to be a sexual predator, the warrant must be issued.

(2) Upon the arrest on a felony charge of an offender who is on release supervision under s. 947.1405, s. 947.146, or s. 947.149, the offender must be detained without bond until the initial appearance of the offender at which a judicial determination of probable cause is made. If the magistrate determines that there was no probable cause for the arrest, the offender may be released. If the magistrate determines that there was probable cause for the arrest, such determination also constitutes reasonable grounds to believe that the offender violated the conditions of the release. Within 24 hours after the magistrate's finding of probable cause, the detention facility administrator or designee shall notify the commission and the department of the finding and transmit to each a facsimile copy of the probable cause affidavit or the sworn offense report upon which the magistrate's probable cause determination is based. The offender must continue to be detained without bond for a period not exceeding 72 hours excluding weekends and holidays after the date of the probable cause determination, pending a decision by the commission whether to issue a warrant charging the offender with violation of the conditions of release. Upon the issuance of the commission's warrant, the offender must continue to be held in custody pending a revocation hearing held in accordance with this section.

Section 55. Subsection (1) of section 948.03, Florida Statutes, 1994 Supplement, is amended, subsections (5), (6), (7), and (8) are renumbered as subsections (6), (7), (8), and (9), respectively, and a new subsection (5) is added to said section, to read:

948.03 Terms and conditions of probation or community control.—

(1) The court shall determine the terms and conditions of probation or community control. *Conditions specified in paragraphs (1)(a) through and including (m) do not require oral pronouncement at the time of sentencing and may be considered standard conditions of probation. Conditions specified in paragraphs (1)(a) through and including (m) and (2)(a) do not require oral pronouncement at sentencing and may be considered standard conditions of community control. These conditions* ~~and~~ may include among them the following, that the probationer or offender in community control shall:

(a) Report to the probation and parole supervisors as directed.

(b) Permit such supervisors to visit him at his home or elsewhere.

(c) Work faithfully at suitable employment insofar as may be possible.

(d) Remain within a specified place.

(e) Make reparation or restitution to the aggrieved party for the damage or loss caused by his offense in an amount to be determined by the court. The court shall make such reparation or restitution a condition of probation, unless it determines that clear and compelling reasons exist to the contrary. If the court does not order restitution, or orders restitution of only a portion of the damages, as provided in s. 775.089, it shall state on the record in detail the reasons therefor.

(f) Effective July 1, 1994, and applicable for offenses committed on or after that date, make payment of the debt due and owing to a county or municipal detention facility under s. 951.032 for medical care, treatment, hospitalization, or transportation received by the felony probationer while in that detention facility. The court, in determining whether to order such repayment and the amount of such repayment, shall consider the amount of the debt, whether there was any fault of the institution for the medical expenses incurred, the financial resources of the felony probationer, the present and potential future financial needs and earning ability of the probationer, and dependents, and other appropriate factors.

(g) Support his legal dependents to the best of his ability.

(h) Make payment of the debt due and owing to the state under s. 960.17, subject to modification based on change of circumstances.

(i) Pay any attorney's fees and costs assessed under s. 27.56, subject to modification based on change of circumstances.

(j) Not associate with persons engaged in criminal activities.

(k)1. Submit to random testing as directed by the correctional probation officer or the professional staff of the treatment center where he is receiving treatment to determine the presence or use of alcohol or controlled substances.

2. If the offense was a controlled substance violation and the period of probation immediately follows a period of incarceration in the state correction system, the conditions shall include a requirement that the offender submit to random substance abuse testing intermittently throughout the term of supervision, upon the direction of the correctional probation officer as defined in s. 943.10(3).

(l) Be prohibited from possessing, carrying, or owning any firearm unless authorized by the court and consented to by the probation officer.

(m) Be prohibited from using intoxicants to excess or possessing any drugs or narcotics unless prescribed by a physician. The probationer or community controlee shall not knowingly visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.

(5) Effective for probationers or community controlees whose crime was committed on or after October 1, 1995, and who are placed under supervision for violation of chapter 794 or s. 800.04, s. 827.071, or s. 847.0145, the court must impose the following conditions in addition to all other standard and special conditions imposed:

(a) A curfew, if appropriate, during hours set by the sentencing court.

(b) If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, or other place where children regularly congregate, as prescribed by the court.

(c) Active participation in and successful completion of a sex offender treatment program, at the probationer's or community controlee's own expense, unless one is not available within a 50-mile radius of the probationer's or community controlee's residence.

(d) A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the sentencing court.

(e) If the victim was under the age of 18, a prohibition, until successful completion of a sex offender treatment program, on unsupervised contact with a child under the age of 18, unless authorized by the sentencing court without another adult present who is responsible for the child's welfare, has been advised of the crime, and is approved by the commission.

(f) If the victim was under age 18, a prohibition on working for pay or as a volunteer at any school, day care center, park, playground, or other place where children regularly congregate.

(g) Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, a prohibition on viewing, owning, or possessing any obscene, pornographic, or sexually explicit material.

(h) A requirement that the probationer or community controlee must submit two specimens of blood to the Florida Department of Law Enforcement to be registered with the DNA data bank.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 55, line 14, after the semicolon (;) insert: amending ss. 775.21, 775.22, 775.23, and 947.1405, F.S.; requiring mandatory special conditions of release; correcting references; clarifying legislative intent; reenacting s. 947.141(1) and (2), F.S., to incorporate the amendment to s. 947.1405, F.S., in references thereto; amending s. 948.03, F.S., relating to terms or conditions of probation or community control; requiring mandatory special conditions of release for sexual predators and other specified offenders, under certain circumstances;

Amendment 1 as amended was adopted.

On motion by Senator Burt, by two-thirds vote **CS for SB's 2944 and 2206** 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

On motion by Senator Jenne, by two-thirds vote **HB 741** was withdrawn from the Committee on Governmental Reform and Oversight.

On motion by Senator Jenne, the rules were waived and—

HB 741—A bill to be entitled An act relating to building designations; directing the Board of Regents to rename the University Tower at the Fort Lauderdale campus of Florida Atlantic University in honor of former Governor Reubin O'D. Askew; designating the equine-reproduction facility of the equine teaching hospital of the College of Veterinary Medicine at the University of Florida as the Delia Houser McGehee, II, Equine-Reproduction Facility; authorizing the University of Florida to erect appropriate markers; designating the Physical Therapy Educational Building of the Health Science Center at the University of Florida as the Ruth K. and Shepard Broad Physical Therapy Educational Building; authorizing the University of Florida to erect appropriate markers; designating the new fine arts building on the Caples Campus of the University of South Florida at Sarasota as the Betty Isermann Fine Arts Building; authorizing the erection of markers; designating the St. Lucie Regional Service Center as the Dr. Clem C. Benton Building; directing the Department of Management Services to erect suitable signs; designating a building on the campus of the University of North Florida as the Dorothy S. Dorion Physical Fitness Center; authorizing the University of North Florida to erect appropriate markers; providing an effective date.

—a companion measure, was substituted for **SB 910** and read the second time by title. On motion by Senator Jenne, by two-thirds vote **HB 741** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—1

On motion by Senator Burt, by two-thirds vote **CS for HB 355** was withdrawn from the Committees on Community Affairs; and Ways and Means.

On motion by Senator Burt—

CS for HB 355—A bill to be entitled An act relating to convention development taxes; amending s. 212.0305, F.S.; authorizing the use of charter county convention development tax revenues for certain public improvements; removing certain conditions with respect to other authorized uses of such tax revenues; revising the rate of the special district convention development tax, the special convention development tax, and the subcounty convention development tax; providing an effective date.

—a companion measure, was substituted for **SB 506** and read the second time by title.

Senator Burt moved the following amendment which was adopted:

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

Section 1. Paragraphs (c), (d), and (e) of subsection (4) of section 212.0305, Florida Statutes, 1994 Supplement, are amended to read:

212.0305 Convention development taxes; intent; administration; authorization; use of proceeds.—

(4) AUTHORIZATION TO LEVY; USE OF PROCEEDS; OTHER REQUIREMENTS.—

(c) Special district levy for convention development.—

1. Each county which was chartered under Art. VIII of the State Constitution and which on January 1, 1984, levied a tourist advertising ad valorem tax within a special taxing district in that county may impose, pursuant to an ordinance enacted by the governing body of the county, a levy within the boundaries of such special taxing district on the exercise of the taxable privilege of leasing or letting transient rental accommodations described in subsection (3) at a rate of *up to 3* ~~2~~ percent of each dollar and major fraction of each dollar of the total consideration charged therefor. The proceeds of this levy shall be known as the special district convention development tax.

2. The county shall designate or appoint an authority to administer and disburse the proceeds of such levy and any revenue related to the levy authorized by this paragraph. The members of such authority shall be selected from persons involved in the tourism and lodging industries doing business within such special district. Not less than a majority of the members shall be selected from persons doing business in the lodging industry. Members shall serve at the pleasure of the governing body of such county and shall serve without compensation. The annual budget of such authority shall be subject to approval of the governing body of the county. The authority shall consist of 11 members, who shall annually select a chairman from among their members.

3. The county shall have no power to levy and impose the tourist advertising ad valorem tax in such district on or after January 1 of the year following the date of the adoption of the levy authorized in this paragraph. All special district convention development moneys, including any interest accrued thereon, received by a county imposing the special district convention development levy shall be used for the following purposes only:

a. To promote and advertise tourism;

b. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus.

4. The special district convention development tax shall be in addition to any other levy imposed pursuant to this section.

5. A certified copy of the ordinance imposing the levy shall be furnished by the county to the department within 10 days after approval of such ordinance. The effective date of the levy shall be the first day of any month at least 60 days after enactment of the ordinance.

6. Revenues collected and returned to the county shall be deposited in a convention development trust fund, which shall be established by the county as a condition precedent to receipt of such funds.

(d) Special levy for convention development.—

1. Each county which was chartered under Art. VIII of the State Constitution and which on January 1, 1984, levied a tourist advertising ad valorem tax within a special taxing district in that county may impose, pursuant to an ordinance enacted by the governing body of the county, a levy outside the boundaries of such special taxing district and to the southeast of State Road 415, on the exercise of the taxable privilege of leasing or letting transient rental accommodations described in subsection (3), at a rate of *up to 3* ~~2~~ percent of each dollar and major fraction of each dollar of the total consideration charged therefor. The proceeds of this levy shall be known as the special convention development tax.

2. The county shall designate or appoint an authority to administer and disburse the proceeds of such levy and any revenue related to the levy authorized by this paragraph. The members of the authority shall be selected from persons doing business within the area in which the tax is levied. Not less than three of the members shall be selected from persons doing business in the lodging industry. Members shall serve at the pleasure of the governing body of the county and shall serve without compensation. The annual budget of the authority shall be subject to approval of the governing body of the county. The authority shall consist of seven members, who shall annually select a chairman from among their members.

3. All special convention development moneys, including any interest accrued thereon, received by a county imposing the special convention development levy shall be used for the following purposes only:

a. To promote and advertise tourism;

b. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus.

4. The special convention development tax shall be in addition to any other levy imposed pursuant to this section.

5. A certified copy of the ordinance imposing the levy shall be furnished by the county to the department within 10 days after approval of the ordinance. The effective date of the levy shall be the first day of any month at least 60 days after enactment of the ordinance.

6. Revenues collected and returned to the county shall be deposited in a separate convention development trust fund, which shall be established by the county as a condition precedent to receipt of such funds.

(e) Subcounty levy for convention development.—

1. Each county which was chartered under Art. VIII of the State Constitution and which on January 1, 1984, levied a tourist advertising ad valorem tax within a special taxing district in that county may impose, pursuant to an ordinance enacted by the governing body of the county, a levy outside the boundaries of such special taxing district and to the northwest of State Road 415, on the exercise of the taxable privilege of leasing or letting transient rental accommodations described in subsection (3), at a rate of *up to 3* ~~2~~ percent of each dollar and major fraction of each dollar of the total consideration charged therefor. The proceeds of this levy shall be known as the subcounty convention development tax.

2. The county shall designate or appoint an authority to administer and disburse the proceeds of such levy and any revenue related to the levy authorized by this paragraph. The members of the authority shall be selected from persons doing business within the area in which the tax is levied. Not less than three of the members shall be selected from persons doing business in the lodging industry. Members shall serve at the pleasure of the governing body of the county and shall serve without compensation. The annual budget of the authority shall be subject to approval of the governing body of the county. The authority shall consist of seven members, who shall annually select a chairman from among their members.

3. All subcounty convention development moneys, including any interest accrued thereon, received by a county imposing the subcounty convention development levy shall be used for the following purposes only:

a. To promote and advertise tourism;

b. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus.

4. The subcounty convention development tax shall be in addition to any other levy imposed pursuant to this section.

5. A certified copy of the ordinance imposing the levy shall be furnished by the county to the department within 10 days after approval of the ordinance. The effective date of the levy shall be the first day of any month at least 60 days after enactment of the ordinance.

6. Revenues collected and returned to the county shall be deposited in a separate convention development trust fund, which shall be established by the county as a condition precedent to receipt of such funds.

Section 2. A special taxing district may not levy a tax under this act at a rate in excess of 2 percent unless the levy of such tax is approved by a super majority (a majority plus one) vote of the members of the governing body of the county in which the special taxing district is located.

Section 3. If any other law is enacted duuring the regular 1995 legislative session that increases the convention development tax authorized by section 212.0305, Florida Statutes, it is the intent of the Legislature that the provisions of this act shall supersede the provisions of such law.

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to convention development taxes; amending s. 212.0305, F.S.; revising the rate of the special district convention development tax, the special convention development tax, and the subcounty convention development tax; providing for approval of a rate increase by a super majority vote of the governing body of the county in which the special taxing district is located; providing legislative intent; providing an effective date.

On motion by Senator Burt, by two-thirds vote **CS for HB 355** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—3

SB 1576—A bill to be entitled An act relating to the water management districts; amending s. 373.59, F.S.; requiring all water management districts to make certain payments in lieu of taxes for district lands acquired with funds allocated from the Water Management Lands Trust Fund; providing an effective date.

—was read the second time by title.

Amendments were adopted to **SB 1576** to conform the bill to **CS for HB 2119**.

Pending further consideration of **SB 1576** as amended, on motion by Senator Rossin, by two-thirds vote—

CS for HB 2119—A bill to be entitled An act relating to environmental regulation; amending s. 373.59, F.S.; requiring all water management districts to make certain payments in lieu of taxes for district lands acquired with funds allocated from the Water Management Lands Trust Fund; amending s. 403.7046, F.S.; providing for certain regulations and reporting and registration process with regard to recovered materials; providing an effective date.

—a companion measure, was substituted for **SB 1576** and by two-thirds vote read the second time by title. On motion by Senator Rossin, by two-thirds vote **CS for HB 2119** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motion by Senator Grant, by two-thirds vote **HB 2507** was withdrawn from the Committees on Banking and Insurance; and Ways and Means.

On motion by Senator Grant—

HB 2507—A bill to be entitled An act relating to financial investigations; amending s. 20.12, F.S.; establishing the Division of Financial Investigations of the Department of Banking and Finance; amending s. 17.04, F.S.; providing investigative duties of the division; providing for the referral of certain records to law enforcement and prosecutorial agencies; providing an effective date.

—a companion measure, was substituted for **SB 2492** and read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 2507** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Grant, by two-thirds vote **HB 2493** was withdrawn from the Committee on Banking and Insurance.

On motion by Senator Grant, by unanimous consent—

HB 2493—A bill to be entitled An act relating to the confidentiality of records of the Department of Banking and Finance; providing exemptions from public records requirements for information relating to investigations conducted by the Division of Financial Investigations; authorizing release of such information to law enforcement and prosecutorial agencies and requiring such agencies to retain such confidentiality; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was taken up out of order and read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 2493** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

On motion by Senator Harris, by two-thirds vote **CS for HB 819** was withdrawn from the Committee on Criminal Justice.

On motion by Senator Harris—

CS for HB 819—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; providing an exemption from public records requirements for a specified period for information that reveals certain information about a victim of certain crimes, upon written request of the victim; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—a companion measure, was substituted for **CS for SB 2198** and read the second time by title. On motion by Senator Harris, by two-thirds vote **CS for HB 819** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

MOTIONS

On motions by Senator Jennings, the rules were waived and by two-thirds vote the following bills were placed on the Special Order Calendar to be considered following the Local Bill Calendar: **HB 813, HB 889, HB 891, HB 2333, HB 2701, CS for SB 2696, HB 811, HB 1133, HB 1143, HB 1003, HB 997, HB 959, CS for CS for HB 379, CS for HB 395, HB 1039, HB 967, HB 1051, HB 1053** and **HB 1055**.

On motions by Senator Jennings, the rules were waived and by two-thirds vote the following bills were placed on the Special Order Calendar to be considered following **HB 1055**: **SB 2888, HB 2471, CS for SB 278, SB 1488, CS for SB's 2906 and 1950, SB 2908, CS for SB 1808, SB 2354, CS for SB 2234, SB 300, CS for SB's 716 and 1686, SB 2928** and **SB 946**.

LOCAL BILLS

On motion by Senator Grant, by two-thirds vote **HB 1295** was withdrawn from the Committee on Rules and Calendar.

HB 1295—A bill to be entitled An act relating to the Hillsborough County Public Transportation Commission; amending chapter 83-423, Laws of Florida, as amended by chapters 87-496 and 88-493, Laws of Florida; deleting obsolete language; providing technical changes in language relating to membership of the commission; providing that meetings may occur less than monthly; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 1295** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—None

On motion by Senator Ostalkiewicz, by two-thirds vote **HB 1515** was withdrawn from the Committee on Rules and Calendar.

On motions by Senator Ostalkiewicz, by two-thirds vote—

HB 1515—A bill to be entitled An act relating to Volusia County; creating the "City of Deltona Charter"; providing legislative intent; establishing the City of Deltona; providing municipal powers; providing for election of a City Commission, and providing for membership, qualifications, terms, and powers and duties of its members, including the Mayor; providing for a Vice Mayor; providing for compensation and expenses; providing circumstances resulting in vacancy in office; providing grounds for forfeiture and suspension; providing for filling of vacancies; providing for meetings; providing for keeping of records; providing for adoption, recording, and distribution of technical codes; prohibiting certain interference with City employees, which shall constitute malfeasance in office; establishing the fiscal year, providing for adoption of annual budget, and providing for increase, reduction, and transfer of appropriations; providing limitations to Commission's bonding or contracting authority; providing for appointment of City Manager and City Attorney; providing for removal, compensation, and filling of vacancies; providing qualifications and powers and duties; providing for nonpartisan elections and for matters relative thereto; providing for recall; providing land description of the city and its districts; providing for dissolution of the Deltona Fire District and for transfer of its assets and liabilities; providing for continuation of personnel and services; providing for the repeal of chapters 69-1707, 73-646, 83-532, 83-533, 84-538 and 90-415, Laws of Florida, relating to the Deltona Fire District; providing for continuation and dissolution of the Deltona Area Municipal Services District and for transfer of its assets and liabilities; providing for continuation and dissolution of the Unincorporated Area Municipal Services and Taxing Unit; providing for future charter amendment; providing for review; providing for standards of conduct in office; providing a transitional schedule and procedures for first election; providing for creation and establishment of City; providing for first-year expenses; providing for adoption of transitional ordinances, resolutions, comprehensive plan, and land use regulations; providing for accelerated entitlement to state-shared revenues; providing for referendum.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—None

On motion by Senator Rossin, by two-thirds vote **HB 1949** was withdrawn from the Committee on Rules and Calendar.

On motions by Senator Rossin, by two-thirds vote—

HB 1949—A bill to be entitled An act relating to Lee County; creating the "Town of Fort Myers Beach charter"; providing for the corporate name and purpose of the charter; establishing territorial boundaries of the municipality and authorizing annexations; providing powers of the municipality and of certain officers; providing for election of a town council, including the mayor and vice mayor, and providing for qualifications, powers, and duties of its membership, and a procedure for establishing their compensation and expense reimbursement; establishing circumstances which create vacancies in office and providing for filling vacancies and for forfeiture and recall; requiring independent financial

audit; providing for council meetings, rules, recordkeeping, and voting at meetings; providing for nominations, elections, and terms of office of the council; providing for a town manager, town clerk, and town attorney and powers and duties of each; authorizing establishment of administrative departments; providing definitions; providing procedures for adoption of ordinances and resolutions, and for handling finances; establishing a fiscal year and annual budgets; providing procedures for initiative and referendum; providing for charter amendments and review; providing for severability; providing for transition, including initial election and terms, date and creation and establishment of the municipality, payment of certain revenues, and transitional comprehensive plan and land development regulations; entitling the town to state shared and local option gas tax revenues; providing for contractual services and facilities; eliminating transition elements; providing for services of independent special districts; providing for credit for special district taxes in qualifying for state revenue sharing; providing for a referendum; providing effective dates.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—None

On motion by Senator Bankhead, by two-thirds vote **HB 2189** was withdrawn from the Committee on Rules and Calendar.

On motions by Senator Bankhead, by two-thirds vote—

HB 2189—A bill to be entitled An act relating to the City of Jacksonville, Duval County; amending chapter 92-341, Laws of Florida, as amended; clarifying exemptions provided by the charter of the City of Jacksonville to designated employees; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—None

On motion by Senator Meadows, by two-thirds vote **HB 2291** was withdrawn from the Committee on Rules and Calendar.

On motions by Senator Meadows, by two-thirds vote—

HB 2291—A bill to be entitled An act relating to Broward County; amending chapter 90-483, Laws of Florida; repealing the proposed annexation of certain lands located in unincorporated Broward County commonly referred to as a portion of the Ravenswood Road Annexation Area into the City of Hollywood; prohibiting the annexation of certain lands for a specified period; providing for the deannexation of certain lands; providing for zoning considerations; providing for the delivery of specified governmental services; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—None

SPECIAL ORDER, continued

HB 813—A bill to be entitled An act relating to confidentiality of meetings and records of the Agency for Health Care Administration; amending s. 455.2173, F.S., which provides exemptions from public meeting and records requirements for meetings of agency members or boards held to create or review licensure examination questions, and records of such meetings; revising said exemptions and saving them from repeal; providing for future review and repeal; providing an effective date.

—was read the second time by title. On motion by Senator Gutman, by two-thirds vote **HB 813** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

HB 889—A bill to be entitled An act relating to the confidentiality of information held by public tourism entities; amending ss. 288.121, 288.1224, and 288.815, F.S., which provide exemptions from public records requirements for the identity of respondents to, and trade secrets obtained pursuant to, marketing or advertising research projects conducted by the Division of Tourism, the Florida Commission on Tourism, and the Office of the Executive Director of the Florida International Affairs Commission; revising said exemptions and saving them from repeal; providing an effective date.

—was read the second time by title. On motion by Senator Gutman, by two-thirds vote **HB 889** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

HB 891—A bill to be entitled An act relating to confidentiality of information relating to economic development agencies; amending ss. 288.1226, 288.809, 288.906, 288.9517, and 288.9616, F.S., which provide exemptions from public records requirements for the identity of donors and prospective donors to the Florida Tourism Industry Marketing Corporation, the Florida International Affairs Foundation, Enterprise Florida, Inc., and the Enterprise Florida Capital Partnership, and for the identity of donors, prospective donors, and inventors who contribute to the Enterprise Florida Innovation Partnership; revising said exemptions and saving them from repeal; providing an effective date.

—was read the second time by title. On motion by Senator Gutman, by two-thirds vote **HB 891** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

HB 2333—A bill to be entitled An act relating to confidentiality of information relating to applicants for commercial development assistance; reenacting s. 288.712(7), F.S., which provides an exemption from public records requirements for personal financial records of persons participating in programs associated with guarantor funds established by the Florida Black Business Investment Board; reenacting s. 288.776(4), F.S., which provides an exemption from public records requirements for personal financial records, trade secrets, and proprietary information of applicants to the Florida Export Finance Corporation; reenacting s. 288.9607(5), F.S., which provides an exemption from public records requirements for personal financial records, trade secrets, and proprietary information of applicants to the Florida Development Finance Corporation; saving such exemptions from repeal; providing an effective date.

—was read the second time by title. On motion by Senator Gutman, by two-thirds vote **HB 2333** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

HB 2701—A bill to be entitled An act relating to public records; amending s. 119.07, F.S., which provides exemptions from public records requirements for the following: licensure, certification, and employment examination questions and answer sheets; active criminal intelligence and investigative information; identities of confidential informants and sources; information revealing surveillance techniques, law enforcement resources or policies, or undercover personnel; information revealing the identity or assets of a crime victim; criminal intelligence or investigative information received prior to January 25, 1979; identities of persons participating in ridesharing; the substance of a confession; sealed bids or proposals received by agencies; information relating to acquisition of real property by executive agencies; certain data processing software; records relating to complaints of discrimination; financial statements submitted by prospective bidders; certain records relating to an allegation of employment discrimination; and investigatory records of the Chief Inspector General or an agency inspector general; saving such exemptions from repeal; revising the exemptions for certain records supplied by telecommunications companies and certain medical information relating to agency employees and saving them from repeal; revising the exemption

for information which would identify a subscriber obtained under the Statewide Provider and Subscriber Assistance Program, transferring it to s. 408.7056(4), F.S., and saving it from repeal; saving the exemption for certain records prepared by agency attorneys from repeal; providing an exemption for certain records prepared by the Attorney General's office in connection with capital collateral litigation; providing a finding of public necessity; providing for future review and repeal; correcting references; repealing s. 119.07(3)(a), (b), (r), (v), and (x), F.S., which provide exemptions from public records requirements for the following: records otherwise provided to be confidential; Department of Insurance examination reports; certain patient records obtained by the Department of Health and Rehabilitative Services from health maintenance organizations or health maintenance organization providers or in connection with review of trauma registry data; and certain medical information relating to state and water management district employees; amending ss. 101.5607, 119.011, 395.4025, 395.404, 409.2577, and 633.527, F.S.; correcting references; providing an effective date.

—was read the second time by title. On motion by Senator Gutman, by two-thirds vote **HB 2701** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

Consideration of **CS for SB 2696** was deferred.

HB 811—A bill to be entitled An act relating to confidentiality of information held by the Department of Environmental Protection, local governments, and the Florida Packaging Council; amending s. 403.074, F.S., which provides an exemption from public records requirements for proprietary information obtained by the department during onsite visits relating to pollution prevention; reenacting s. 403.7046(2) and (3)(b), F.S., which provide exemptions from public records requirements for trade secrets concerning recovered materials obtained by the department and local governments; amending s. 403.7199, F.S., which provides an exemption from public records requirements for trade secrets obtained by the Florida Packaging Council; saving such exemptions from repeal; providing an effective date.

—was read the second time by title.

Senator Dyer moved the following amendments which were adopted:

Amendment 1—On page 4, strike line 15 and insert:

Section 4. Section 381.83, Florida Statutes, is created to read:

381.83 Trade secrets; confidentiality.—Records, reports, or information obtained from any person under this chapter, unless otherwise provided by law, shall be available to the public, except upon a showing satisfactory to the department by the person from whom the records, reports, or information is obtained that such records, reports, or information, or a particular part thereof, contains trade secrets as defined in s. 812.081(1)(c). Such trade secrets shall be confidential and are exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The person submitting such trade secret information to the department must request that it be kept confidential and must inform the department of the basis for the claim of trade secret. The department shall, subject to notice and opportunity for hearing, determine whether the information, or portions thereof, claimed to be a trade secret is or is not a trade secret. Such trade secrets may be disclosed, however, to authorized representatives of the department or, pursuant to request, to other governmental entities in order for them to properly perform their duties, or when relevant in any proceeding under this chapter. Authorized representatives and other governmental entities receiving such trade secret information shall retain its confidentiality. Those involved in any proceeding under this chapter, including a hearing officer or judge or justice, shall retain the confidentiality of any trade secret information revealed at such proceeding. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 5. Section 403.73, Florida Statutes, is amended to read:

403.73 Trade secrets*; confidentiality*.—Records, reports, or information obtained from any person under this *part, unless otherwise provided by law,* ~~act~~ shall be available to the public, except upon a showing satisfactory to the department by the person from whom the records, reports, or information is obtained that such records, reports, or information, or a particular part thereof, *contains* ~~contain~~ trade secrets *as defined in s. 812 081(1)(c)*. Such trade secrets~~, or portions thereof,~~ shall be confidential and are exempt from the provisions of s. 119.07(1) *and s. 24(a), Art. I of the State Constitution.* The person *submitting such trade secret information to the department* must request that *it be kept* ~~the department keep such trade secrets~~ confidential and must inform the department of the basis for the claim of trade secret. The department shall, subject to notice and opportunity for hearing, determine whether the information, or portions thereof, claimed to be a trade secret is or is not a trade secret. ~~When making a determination pursuant to this section, the department shall consider the public purpose specified in s. 119.14(4)(b)3. However,~~ Such trade secrets may be disclosed, *however,* to ~~officers, employees, or~~ authorized representatives of the department or, *pursuant to request, to other governmental entities in order for them to properly perform their duties* ~~of the United States Environmental Protection Agency~~, or when relevant in any proceeding under this *part* ~~act~~. *Authorized representatives and other governmental entities receiving such trade secret information shall retain its confidentiality. Those involved in any proceeding under this part, including a hearing officer or judge or justice, shall retain the confidentiality of any trade secret information revealed at such proceeding.* This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 6. *The Legislature finds that it is a public necessity that trade secret information submitted to the Department of Health and Rehabilitative Services be held confidential and exempt from the public records law. If it were otherwise, for example, a person's secret formula would become public information. Competitors could then reap financial benefits from another's work product, thereby injuring the creator of the formula in the marketplace. This would stifle creativity and competition, to the detriment of the public. There is some good derived from release of trade secret information, in that independent third parties could scrutinize, for example, a formula; however, agency staff have the expertise to evaluate the efficacy of such formula. Furthermore, the effectiveness of the formula can be otherwise disclosed without disclosing the formula. Also, sharing trade secret information held by the Department of Health and Rehabilitative Services and the Department of Environmental Protection between those two agencies and among other governmental entities is essential in order for them to properly perform their public duties; however, confidentiality of shared trade secret information must be maintained. In sum, the public and private harm in releasing trade secret information substantially outweighs the minimal public benefit derived therefrom.*

Section 7. Subsection (5) is added to section 499.051, Florida Statutes, 1994 Supplement, to read:

499.051 Inspections and investigations.—

(5) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation and the enforcement action are completed. However, trade secret information contained therein as defined by s. 812.081(1)(c) shall remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, as long as the information is retained by the department. This subsection does not prohibit the department from using such information for regulatory or enforcement proceedings under this chapter or from providing such information to any law enforcement agency or any other regulatory agency. However, the receiving agency shall keep such records confidential and exempt as provided in this subsection. In addition, this subsection is not intended to prevent compliance with the provisions of s. 499 0121(6)(d), and the pedigree papers required in that subsection shall not be deemed a trade secret. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 8. *The Legislature finds that it is a public necessity to keep a complaint and all information obtained pursuant to an investigation by the Department of Health and Rehabilitative Services under the Florida Drug and Cosmetic Act confidential and exempt until the investigation and the enforcement action are completed. If it were otherwise, the subject of the investigation could acquire such information and interfere with the department's investigation. This would impede the effectiveness and efficiency of such investigations, to the public's detriment. The Legislature also finds that it is a public necessity to maintain the confidentiality of trade secrets obtained by the department even after the investigation is complete because the release of such informa-*

tion would enable competitors to reap unfair financial advantages which would impair the profitability and competitiveness of firms in the industry and reduce their incentive to develop innovative, effective drugs and cosmetics that meet consumer needs.

Section 9. *Sections 3 through 8 of this act are remedial in nature and shall be given retroactive effect.*

Section 10. This act shall take effect upon becoming a law.

Amendment 2—In title, on page 1, strike all of lines 18 and 19 and insert: exemptions from repeal; creating s. 381.83, F.S.; providing an exemption from public records requirements for trade secrets obtained by the Department of Health and Rehabilitative Services under ch. 381, F.S.; providing requirements for determination of whether information is a trade secret; authorizing disclosure to certain persons and entities and requiring that such persons and entities maintain confidentiality; amending s. 403.73, F.S.; revising provisions which provide an exemption from public records requirements for trade secrets obtained by the Department of Environmental Protection; authorizing disclosure to certain persons and entities and requiring that such persons and entities maintain confidentiality; amending s. 499.051, F.S.; providing an exemption from public records requirements for complaints and investigatory information obtained by the Department of Health and Rehabilitative Services under the Florida Drug and Cosmetic Act for a specified period, and for trade secret information contained therein; providing for certain use of such information and requiring receiving agencies to maintain confidentiality; providing for retroactive effect; providing for future review and repeal; providing findings of public necessity; providing an effective date.

On motion by Senator Gutman, by two-thirds vote **HB 811** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

On motion by Senator Bankhead, by two-thirds vote **CS for HB 1485** was withdrawn from the Committee on Health and Rehabilitative Services.

On motion by Senator Bankhead—

CS for HB 1485—A bill to be entitled An act relating to public records; creating s. 430.608, F.S.; providing an exemption from public records requirements for identifying information about elderly persons collected and held by the Department of Elderly Affairs, by volunteers, or by persons under contract with area agencies on aging; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—a companion measure, was substituted for **CS for SB 2696** and read the second time by title. On motion by Senator Bankhead, by two-thirds vote **CS for HB 1485** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—1

HB 1133—A bill to be entitled An act relating to trust funds; creating s. 240.40, F.S.; creating the State Student Financial Assistance Trust Fund within the Department of Education; providing for source of moneys and purposes; providing for future review and termination or recreation of the fund; providing a contingent effective date.

—was read the second time by title. On motion by Senator Jennings, by two-thirds vote **HB 1133** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39 Nays—1

HB 1143—A bill to be entitled An act relating to trust funds; terminating and modifying specified trust funds and fund accounts within the Department of Education; providing for the transfer of current balances, the paying of outstanding debts and obligations, and the removal of the terminated funds and accounts from the various state accounting systems; amending s. 240.4095, F.S.; funding the Florida Private Student Assistance Grant Program through the State Student Financial Assistance Trust Fund; amending s. 240.4145, F.S.; funding the African and Afro-Caribbean Scholarship Program through the State Student Financial Assistance Trust Fund; amending s. 320.0808, F.S., relating to Challenger license plates; eliminating provisions for deposit of license plate annual use fees into the Center for Space Education Trust Fund; increasing fee deposits to the Challenger Astronauts Memorial Undergraduate Scholarship Trust Fund; amending s. 240.4065, F.S.; funding the Critical Teacher Shortage Program through the State Student Financial Assistance Trust Fund; amending s. 240.4063, F.S., relating to the Florida Teacher Scholarship and Forgivable Loan Program, to conform; amending s. 240.4068, F.S., relating to the "Chappie" James Most Promising Teacher Scholarship Loan Program, to conform; amending s. 228.502, F.S.; funding the Education Success Incentive Program through the State Student Financial Assistance Trust Fund; amending s. 240.606, F.S.; funding the Florida Work Experience Program through the State Student Financial Assistance Trust Fund; amending s. 240.409, F.S.; funding the Florida Public Student Assistance Grant Program through the State Student Financial Assistance Trust Fund; amending s. 240.439, F.S., relating to the Student Loan Program; eliminating reference to the Student Loan Trust Fund; amending ss. 240.441, 240.447, and 240.449, F.S., relating to various aspects of the program, to conform; amending s. 240.402, F.S.; funding the Florida Undergraduate Scholars' Program through the State Student Financial Assistance Trust Fund; amending s. 232.2465, F.S., relating to the Florida Academic Scholars' Certificate Program, to conform; amending s. 240.4097, F.S.; funding the Florida Postsecondary Student Assistance Grant Program through the State Student Financial Assistance Trust Fund; amending s. 240.414, F.S.; funding the Latin American and Caribbean Basin Scholarship Program through the State Student Financial Assistance Trust Fund; amending s. 240.4125, F.S.; funding the Mary McLeod Bethune Scholarship Program through the State Student Financial Assistance Trust Fund; amending s. 240.413, F.S.; funding Seminole and Miccosukee Indian Scholarships through the State Student Financial Assistance Trust Fund; amending s. 240.412, F.S.; funding the Jose Marti Scholarship Challenge Grant Program through the State Student Financial Assistance Trust Fund; amending s. 239.217, F.S.; funding the Florida Gold Seal Vocational Endorsement Program through the State Student Financial Assistance Trust Fund; amending s. 240.4986, F.S., relating to the Health Care Education Quality Enhancement Challenge Grant Program; eliminating reference to the grant fund; amending s. 230.71, F.S.; funding the Intergenerational School Volunteer Program through the Grants and Donations Trust Fund; amending s. 240.4987, F.S.; funding the Florida Minority Medical Education Program through the State Student Financial Assistance Trust Fund; amending s 240.6072, F.S.; funding the Occupational Therapist or Physical Therapist Critical Shortage Program through the State Student Financial Assistance Trust Fund; amending s. 240.609, F.S.; funding the Florida Postsecondary Endowment Grants Program through the Grants and Donations Trust Fund; amending s. 232.257, F.S., relating to the School Safety Program; eliminating reference to the program trust fund; amending s. 240.4085, F.S.; funding the Florida Student Tuition Scholarship Grant Program through the State Student Financial Assistance Trust Fund; amending s. 239.225, F.S.; funding the Vocational Improvement Program through the Grants and Donations Trust Fund; amending s. 239.505, F.S., relating to the "Florida Constructive Youth Act," to conform; amending s. 240.4093, F.S.; funding the Vocational Student Assistance Grant Program through the State Student Financial Assistance Trust Fund; amending s. 240.605, F.S., relating to Florida resident access grants; eliminating reference to the grant fund; amending s. 240.4126, F.S.; funding the Rosewood Family Scholarship Program through the State Student Financial Assistance Trust Fund; amending s. 240.4988, F.S., relating to the Theodore R. and Vivian M. Johnson Scholarship Program; eliminating reference to the program trust fund; providing an effective date.

—was read the second time by title. On motion by Senator Jennings, by two-thirds vote **HB 1143** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39 Nays—1

HB 1003—A bill to be entitled An act relating to trust funds; terminating and modifying specified trust funds and fund accounts within the Department of Agriculture and Consumer Services, the Department of Banking and Finance, the Department of Revenue, the Executive Office of the Governor, and the Florida Public Service Commission; providing

for the transfer of current balances, the paying of outstanding debts and obligations, and the removal of the terminated funds and accounts from the various state accounting systems; renaming the Sales Tax Security Deposit Trust Fund as the Security Deposits Trust Fund; amending s. 589.08, F.S.; eliminating a provision relating to the Forestry Lands Trust Fund and its purposes; amending s. 589.277, F.S.; funding tree planting programs through the Grants and Donations Trust Fund; amending ss. 496.405, 496.409, 496.410, and 496.419, F.S.; funding the administration and enforcement of the "Solicitation of Contributions Act" through the General Inspection Trust Fund; amending s. 589.04, F.S., relating to duties of the Division of Forestry of the Department of Agriculture and Consumer Services; funding various forestry-related programs through the Incidental Trust Fund; amending ss. 215.55 and 215.552, F.S.; providing for distribution of certain moneys to the counties from the Federal Use of State Lands Trust Fund; amending ss. 212.0505 and 212.20, F.S.; providing that all proceeds from the tax on controlled and other substances shall be transferred to the Drug Enforcement Trust Fund; repealing s. 366.84, F.S., relating to the Florida Energy Trust Fund; repealing s. 1(1)(l), ch. 94-265, Laws of Florida, to repeal the termination of the Parole Commission Grants and Donations Trust Fund; providing an effective date.

—was read the second time by title. On motion by Senator Jennings, by two-thirds vote **HB 1003** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39 Nays—1

HB 997—A bill to be entitled An act relating to trust funds; creating s. 409.2582, F.S.; creating the Child Support Clearing Trust Fund within the Department of Revenue; providing for source of moneys and purposes; providing for future review and termination or re-creation of the fund; providing a contingent effective date.

—was read the second time by title. On motion by Senator Jennings, by two-thirds vote **HB 997** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39 Nays—1

HB 959—A bill to be entitled An act relating to the re-creation of the Minerals Trust Fund without modification; re-creating the Minerals Trust Fund; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—was read the second time by title. On motion by Senator Jennings, by two-thirds vote **HB 959** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39 Nays—1

On motion by Senator Jennings, by unanimous consent—

HB 1039—A bill to be entitled An act relating to the re-creation of the Water Management Lands Trust Fund without modification; re-creating the Water Management Lands Trust Fund; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Jennings, by two-thirds vote **HB 1039** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39 Nays—1

CS for CS for HB 379—A bill to be entitled An act relating to education; creating s. 236.1229, F.S.; requiring use of funds in the Florida School Improvement and Academic Achievement Trust Fund to provide challenge grants and matching endowment grants to district school boards; providing duties; providing for allocation and matching of funds; providing for district-level administration; authorizing district trust funds and providing duties of direct-support organizations; prohibiting certain uses of funds; providing a contingent effective date.

—was read the second time by title. On motion by Senator Jennings, by two-thirds vote **CS for CS for HB 379** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39 Nays—1

CS for HB 395—A bill to be entitled An act relating to trust funds; creating the Florida School Improvement and Academic Achievement Trust Fund within the Department of Education; providing for source of moneys and purposes; providing for future review and termination or re-creation of the fund; providing a contingent effective date.

—was read the second time by title. On motion by Senator Jennings, by two-thirds vote **CS for HB 395** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39 Nays—1

HB 967—A bill to be entitled An act relating to the re-creation of the Clerk of the Court Child Support Enforcement Collection System Trust Fund without modification; re-creating the Clerk of the Court Child Support Enforcement Collection System Trust Fund; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—was read the second time by title.

Senators Dudley and Myers offered the following amendment which was moved by Senator Dudley and adopted:

Amendment 1 (with Title Amendment)—On page 2, strike all of lines 1-6 and insert:

Section 2. Subsection (2) of section 61.181, Florida Statutes, is amended to read:

61.181 Central depository for receiving, recording, reporting, monitoring, and disbursing alimony, support, maintenance, and child support payments; fees.—

(2)(a) The depository shall impose and collect a fee on each payment made for receiving, recording, reporting, disbursing, monitoring, or handling alimony or child support payments as required under this section, which fee shall be a flat fee based, to the extent practicable, upon estimated reasonable costs of operation. The fee shall be reduced in any case in which the fixed fee results in a charge to any party of an amount greater than 3 percent of the amount of any support payment made in satisfaction of the amount which the party is obligated to pay, except that no fee shall be less than $1 nor more than $5 per payment made. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay.

(b)1. For the period of July 1, 1992, through June 30, 1997, the fee imposed in paragraph (a) shall be increased to 4 percent of the support payments which the party is obligated to pay, except that no fee shall be less than $1.25 nor more than $5.25. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay. Notwithstanding the provisions of s. 145.022, 75 percent of the additional revenues generated by this paragraph shall be remitted monthly to the Clerk of the Court Child Support Enforcement Collection System Trust Fund administered by the department as provided in subparagraph 2. These funds shall be used exclusively for the development, implementation, and operation of an automated child support enforcement collections system to be operated by the depositories. The department shall contract with the Florida Association of Court Clerks and Comptrollers and the depositories to design, establish, operate, upgrade, and maintain the automation of the depositories to include, but not be limited to, the provision of on-line electronic transfer of information to the IV-D agency as otherwise required by this chapter.

2. The moneys remitted to the department by the depository shall be calculated as follows:

a. For each support payment of less than $33, 18.75 cents.

b. For each support payment between $33 and $140, an amount equal to 18.75 percent of the fee charged.

c. For each support payment in excess of $140, 18.75 cents.

3. Prior to June 30, 1995, the depositories and the department shall provide the Legislature with estimates of the cost of continuing the collection and maintenance of information required by this act.

(c) The depository may not deduct any fee authorized by this subsection from the payment to the obligee.

Section 3. All current balances of the Clerk of the Court Child Support Enforcement Collection System Trust Fund are carried forward, and all current uses of the trust fund are continued.

Section 4. This act shall take effect November 4, 1996, except that section 2 of this act shall take effect upon becoming law.

And the title is amended as follows:

In title, on page 1, strike all of lines 8 and 9 and insert: balances and continuing current uses thereof; amending s. 61.181, F.S., clarifying upon whom the fee may be assessed; providing effective dates.

On motion by Senator Dudley, by two-thirds vote **HB 967** as amended was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—38 Nays—None

HB 1051—A bill to be entitled An act relating to trust funds; creating s. 403.1654, F.S.; creating the Ecosystem Management and Restoration Trust Fund within the Department of Environmental Protection; providing for source of moneys and purposes; providing for future review and termination or re-creation of the fund; providing a contingent effective date.

—was read the second time by title.

Senator Dantzler moved the following amendment which was adopted:

Amendment 1—On page 3, strike all of lines 12-15 and insert:

Section 3. This act shall take effect November 4, 1996, but it shall not take effect unless it is enacted by a three-fifths vote of the membership of each house of the Legislature.

On motion by Senator Dantzler, by two-thirds vote **HB 1051** as amended was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—37 Nays—None

Consideration of **HB 1053** was deferred.

HB 1055—A bill to be entitled An act relating to trust funds; declaring the findings of the Legislature that specified trust funds in the Department of Environmental Protection are exempt from the automatic-termination requirements of Section 19(f), Article III of the State Constitution; providing an effective date.

—was read the second time by title. On motion by Senator Jenne, by two-thirds vote **HB 1055** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motion by Senator Childers, by two-thirds vote—

HB 2369—A bill to be entitled An act relating to consumer protection; amending ss. 381.0072, 500.03, and 509.013, F.S.; providing an exemption from the definition of "food service establishment"; creating s. 559.926, F.S.; providing a short title; amending s. 559.927, F.S., and creating ss. 559.928-559.939, F.S.; reorganizing provisions relating to sellers of travel; revising definitions, certain security requirements, cancellation requirements, violations, certain exemptions, penalty provisions, and state preemption; providing additional exemptions; adding certain disclosure requirements; amending ss. 205.1971, 501.604, and 817.36, F.S.; correcting cross references; providing an effective date.

—a companion measure, was substituted for **SB 2888** and by two-thirds vote read the second time by title. On motion by Senator Childers, by two-thirds vote **HB 2369** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—1

On motion by Senator Jenne, by unanimous consent—

HB 2475—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.02, F.S.; providing that privilege, franchise, or concession fees or fees for a license to do business paid to an airport are not payments for leasing, renting, or granting a license to use real property; amending s. 212.031, F.S.; providing for determination of amounts subject to the tax on the lease or rental of or license in real property; providing intent; providing an effective date.

—was taken up out of order. On motions by Senator Jenne, by two-thirds vote **HB 2475** was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—1

On motion by Senator Forman, by unanimous consent—

CS for HB 1675—A bill to be entitled An act relating to adult congregate living facilities; amending s. 400.402, F.S.; modifying definitions; amending s. 400.407, F.S., and creating s. 400.4075, F.S.; revising provisions relating to services under a limited mental health license; providing for increases in license fees; providing an inspection fee; amending s. 400.408, F.S.; clarifying unlawful referral to a facility under moratorium; amending ss. 400.411 and 400.412, F.S.; expanding requirements relating to a facility's property agreements and firesafety inspections; conforming provisions for sale or transfer of facility ownership; amending s. 400.414, F.S., specifying acts relating to firesafety standards that are grounds for regulatory action against a licensee; providing that certain proceedings are not subject to de novo review; providing for denial or revocation of a license for failure to correct fire code violations; specifying timeframe for hearing officers' decisions; reenacting s. 400.415, F.S., relating to moratorium on admissions, to incorporate the amendment to 400.414, F.S., in a reference; amending s. 400.417, F.S.; requiring proof of satisfactory firesafety inspection for license renewal; amending s. 400.4176, F.S.; requiring background screening of new administrators; amending s. 400.428, F.S.; expanding requirements for inspections for compliance with residents' rights; amending s. 400.441, F.S.; providing legislative intent; requiring annual fire inspections; creating s. 400.4415, F.S.; establishing an advisory committee; providing for a pilot facility rating system; amending s. 400.444, F.S.; expanding requirements for facility construction and renovation to include compliance with uniform firesafety standards; authorizing certain agency action upon notice of life-threatening violations; amending s. 400.452, F.S.; expanding the core educational requirement for facility administrators and staff; requiring competency testing; providing a penalty; providing for continuing education; authorizing the Agency for Health Care Administration to require further training or education; creating s. 400.456, F.S.; providing screening requirements for administrators, owners, corporate officers, general partners, and directors of adult congregate living facilities; providing requirements for proof of previous compliance with screening requirements; providing conditions for termination of certain employees; providing for the costs of records checks; limiting the use of certain records; providing penalties; providing exemptions from disqualification from employment; providing a limitation; amending s. 409.212, F.S.; correcting a cross reference; establishing an adult congregate living facility loan program; providing for startup funding; authorizing contract for program administration; providing for eligibility and applications; providing for request for bids; providing for evaluation and reports; amending s. 400.402, F.S.; modifying definitions; amending s. 400.407, F.S., and creating s. 400.4075, F.S.; revising provisions relating to services under a limited mental health license; amending s. 400.408, F.S.; clarifying unlawful referral to a facility under moratorium; amending ss. 400.411 and 400.412, F.S.; expanding requirements relating to a facility's property agreements and firesafety

inspections; conforming provisions for sale or transfer of facility ownership; amending s. 400.414, F.S.; specifying acts relating to firesafety standards that are grounds for regulatory action against a licensee; providing that certain proceedings are not subject to de novo review; providing for denial or revocation of a license for failure to correct fire code violations; specifying timeframe for hearing officers' decisions; reenacting s. 400.415, F.S., relating to moratorium on admissions, to incorporate the amendment to 400.414, F.S., in a reference; amending s. 400.417, F.S.; requiring proof of satisfactory firesafety inspection for license renewal; amending s. 400.4176, F.S.; requiring background screening of new administrators; amending s. 400.428, F.S.; expanding requirements for inspections for compliance with residents' rights; amending s. 400.441, F.S.; providing legislative intent; providing for a determination of evacuation capability; providing firesafety requirements; requiring the installation of automatic fire sprinkler systems within specified deadlines; creating a study-work group to study firesafety standards and report its recommendations to the Legislature; creating s. 400.4415, F.S.; establishing an advisory committee; providing for a pilot facility rating system; amending s. 400.444, F.S.; expanding requirements for facility construction and renovation to include compliance with uniform firesafety standards; authorizing certain agency action upon notice of life-threatening violations; amending s. 400.452, F.S.; requiring quarterly training and education programs; adding a topic to the core educational requirement; requiring certain training for new administrators; modifying exemptions from the training fee; providing a continuing education requirement; eliminating requirement that the department provide certain training; amending s. 409.212, F.S.; correcting a cross reference; establishing an adult congregate living facility fire prevention loan program; providing for funding; providing for administration; amending s. 400.407, F.S.; deleting a limited mental health license; elimination certain fees; increasing biennial license fees; requiring inspection fees in certain instances; providing a waiver of local government fees; amending s. 400.418, F.S.; providing for disposition of inspection fees; amending s. 400.441, F.S.; requiring the adoption of quality resident-care standards; specifying a national fire code to be enforced; requiring certain facilities to have an automatic sprinkler system; specifying a time frame for installation of an automatic sprinkler system for certain facilities; requiring an annual fire inspection by the local fire marshal; requiring certain facilities to be staffed 24 hours every day; amending s. 400.141, F.S.; revising the requirements for nursing home facilities pertaining to respite care and adult day services; authorizing certain nursing home facilities to share programs and staff; amending s. 400.402, F.S.; amending definitions; amending s. 400.407, F.S.; amending criteria for who may be admitted, or may remain, as a resident in a licensed facility; amending provisions relating to the annual status report; amending s. 400.4176, F.S.; amending notice requirements that apply when a facility changes administrators during a license period; amending s. 400.426, F.S.; providing an exception to requirements concerning a medical examination of a newly admitted resident; amending s. 400.452, F.S.; amending staff training and education requirements; providing periodic continuing education requirements for administrators; requiring training in specified job duties for administrators and other staff members; amending provisions relating to the responsibility for paying for educational courses; reassigning certain duties from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; amending s. 641.31, F.S.; requiring subscribers who are residents of certain continuing care facilities or retirement facilities to be transferred to the facilities' skilled nursing units under certain circumstances; providing for a pilot project for direct admission of individuals to adult congregate living facility extended congregate care programs; providing guidelines; requiring evaluations and reports; amending and renumbering ss. 410.021, 410.022, 410.023, 410.024, 410.0241, 410.026, and 410.0295, F.S., relating to the community-care-for-the-elderly program; revising definitions; transferring responsibilities to the Department of Elderly Affairs; revising powers and duties; providing for collection of fees; limiting administrative expenses; revising program services; providing for training standards and requirements for service providers and staff; amending and renumbering s. 410.401, F.S.; transferring responsibility for the Alzheimer's Disease Advisory Committee to the department; providing additional duties; increasing membership; revising appointment procedures; providing for per diem and travel expenses; amending and renumbering s. 410.402, F.S.; revising provisions relating to funding of memory disorder research clinics and centers; providing department responsibilities; limiting administrative expenses; revising provisions relating to day care and respite care programs; creating s. 430.503, F.S.; providing for collection of fees for services under the "Alzheimer's Disease Initiative"; limiting administrative expenses; amending and renumbering s. 410.403, F.S., and amending ss. 110.501, 400.464, 402.33, and 420.36, F.S.; conforming cross references; transferring to the department certain responsibilities and specified funds of the Aging and Adult Services Program Office of the Department of Health and Rehabilitative Services; amending s. 20.41, F.S.; providing for headquarters and planning and service areas of the Department of Elderly Affairs; providing that the department is the state unit on aging; providing for area agencies on aging; providing organization and responsibilities; deleting obsolete language; amending ss. 400.401, 400.402, 400.408, 400.426, 400.431, 400.434, 400.441, and 400.452, F.S.; changing references to adult congregate living facilities to assisted living facilities; transferring to the department from the Department of Health and Rehabilitative Services certain responsibilities and funding relating to assisted living facilities; providing responsibilities of the departments and the Agency for Health Care Administration; conforming provisions and references; amending ss. 400.551 and 400.562, F.S.; transferring certain responsibilities relating to adult day care centers; providing for standards adopted in rules; amending s. 400.602, F.S.; providing hospice licensure for certain entities under specified conditions; amending ss. 400.601, 400.602, 400.605, and 400.606, F.S.; transferring certain responsibilities relating to hospices; allowing for additional hospices under certain conditions; amending ss. 400.618, 400.619, 400.6196, 400.621, 400.6211, and 400.622, F.S.; transferring certain responsibilities and funding relating to adult family-care homes; providing responsibilities of the departments and the Agency for Health Care Administration; providing for future transfer of powers, duties, and functions relating to administration of the nursing home preadmission screening program to the department from the Department of Health and Rehabilitative Services; providing for allocation of resources to the planning and service areas; providing for transfer of positions and funding; providing for comprehensive assessment and review screening for certain persons; providing for future transfer of powers, duties, and functions relating to the home care for the elderly program; abolishing certain staff positions; providing for administration of the program on a contractual basis through the area agencies on aging; providing for a task force for reemployment assistance; providing for transfer of funding; providing for use of savings due to privatized administration of the program; amending and renumbering s. 410.011, F.S.; providing that the Department of Elderly Affairs is the designated state unit for administration of federal aging programs; amending ss. 410.031, 410.032, 410.033, 410.034, 410.035, and 410.037, F.S.; providing for future separate administration of provisions relating to home care for disabled adults and the elderly by the Department of Health and Rehabilitative Services and the Department of Elderly Affairs; deleting references to elderly persons from provisions to be administered by the Department of Health and Rehabilitative Services; deleting provisions relating to judicial review of unfitness to provide home care; conforming language; amending ss. 430.01, 430.02, 430.03, and 430.04, F.S.; revising short title, legislative intent, purposes, and duties and responsibilities of the Department of Elderly Affairs; creating ss. 430.601, 430.602, 430.603, 430.604, 430.605, and 430.606, F.S.; providing for future administration by the Department of Elderly Affairs of provisions relating to home care for the elderly; providing legislative intent; providing definitions; providing for minimum standards and procedures; providing for determination of fitness to provide home care; providing for subsidy payments; providing for eligibility; providing a definition for certain purposes; repealing s. 410.016, F.S, relating to responsibilities of the Department of Health and Rehabilitative Services regarding the state's elderly population; repealing s. 410.029, F.S., relating to multiyear plans for implementation of community care systems; repealing ss. 410.201, 410.2015, and 410.202, F.S., relating to the older volunteers service credit program; repealing s. 430.06, F.S., relating to an interdepartmental plan for improving the provision of social service and long-term care to the elderly; transferring the powers, duties, and functions of the displaced homemaker program from the Department of Health and Rehabilitative Services to the Department of Education; transferring, renumbering, and amending ss. 410.30, 410.301, and 410.302, F.S.; conforming terminology to the transfer of the displaced homemaker program; transferring at a future date certain powers, duties, and functions of the Department of Health and Rehabilitative Services related to nursing home preadmission screening, home care for the elderly, and training of adult congregate living facilities to the Department of Elderly Affairs; amending s. 212.08, F.S.; providing an exemption from payment of taxes for residents of certain homes for the aged; amending s. 415.101, F.S.; revising legislative intent with respect to adult protective services; providing for care and protection of all disabled adults and elderly persons; amending s. 415.102, F.S.; revising definitions; amending s. 415.103, F.S.; revising the operation of the central abuse registry and tracking system; creating s. 415.1034, F.S.; prescribing requirements for mandatory reporting of abuse, neglect, exploitation, or death;

creating ss. 415.1035, 415.1036, F.S.; prescribing provisions relating to a facility's duty to inform residents of the right to make reports and relating to immunity for those who make reports; creating s. 415.1045, F.S.; providing requirements for protective investigations and transmittal of records to state attorneys; providing for use of photographs and videotapes; providing for abrogation of privileged communications; providing for confidential records and documents; providing for classification or closure of records; amending s. 415.105, F.S.; revising requirements for provision of protective services with consent or when consent is withdrawn; deleting provisions relating to protective services for disabled adults and elderly persons who lack capacity to consent, or whose caregivers refuse services, or in an emergency; creating s. 415.1051, F.S.; prescribing requirements for the provision of protective services when capacity to consent is lacking; providing for nonemergency and emergency interventions; providing for notice and hearings; providing for protective services with caregiver or guardian present; providing for protective services orders; specifying limitations; creating s. 415.1052, F.S.; prescribing procedures relating to interference with an investigation or the provision of protective services; creating s. 415.1055, F.S.; providing for notification to administrative entities and other persons and notification to law enforcement and state attorneys; amending s. 415.106, F.S.; revising requirements for cooperation between the Department of Health and Rehabilitative Services and criminal justice and other agencies; creating s. 415.1065, F.S.; requiring certain records management; amending s. 415.107, F.S.; revising provisions relating to confidentiality of reports and records; creating s. 415.1075, F.S.; providing for administrative remedies; providing for amendment or expunction of reports; providing for appeals; providing for request to set aside a report due to excusable neglect or fraud; creating s. 415.1099, F.S.; providing for waiver of certain filing fees; amending s. 415.1102, F.S.; revising provisions relating to adult protection teams and services provided thereby; creating s. 415.1105, F.S.; providing for training programs for adult protective services staff and persons required to report abuse, neglect, or exploitation; amending s. 415.111, F.S.; revising and eliminating criminal penalties; specifying criminal penalties for a person who commits an assault or battery on a protective investigator; creating s. 415.1111, F.S.; providing civil penalties; providing for a private right of action for abuse, neglect, or exploitation of a disabled adult or elderly person; creating s. 415.1113, F.S.; providing for administrative fines for false reporting; providing for allegations; providing for notice and hearing; amending s. 415.113, F.S., relating to statutory construction; transferring and renumbering s. 415.114, F.S., relating to a motion for a speedy trial for persons over a specified age; amending ss. 39.001, 39.045, 39.076, 39.411, 110.1127, 119.07, 242.335, 393.0655, 394.457, 395.3025, 397.451, 400.211, 400.414, 400.512, 400.619, 402.305, 409.175, 415.504, 447.208, 447.401, 464.018, 509.032, 744.474, 775.15, and 943.0585, F.S.; revising requirements for certification of nursing assistants; requiring certain information to be added to the certified nursing assistant registry; expanding authority of the Agency for Health Care Administration to deny, suspend, or revoke certification; revising circumstances which require recertification; requiring nursing homes to verify certification prior to employment of a nursing assistant; requiring notice to the registry of certain lapse of employment; authorizing the agency to contract for examination services; providing a cost limitation; providing a fee for issuance of a duplicate certificate; providing screening requirements for certified nursing assistants and nursing assistant students employed in a nursing home; requiring nursing home administrators to annually confirm screening of all such employees; providing requirements for proof of previous compliance with screening requirements; providing conditions for termination of certain employees; providing for the costs of records checks; limiting the use of certain records; providing penalties; providing exemptions from disqualification from employment; providing a limitation; revising standards for screening to conform to the act; conforming terminology and correcting cross references; providing for screening of personnel of certain programs of the Department of Elderly Affairs; amending s. 90.803, F.S.; amending s. 400.464, F.S.; providing that offering or advertising home health services without a license or misrepresenting the nature of the license held is a violation of the Florida Deceptive and Unfair Trade Practices Act; providing criminal penalties for such practice; specifying conditions for admissibility of certain hearsay evidence; creating s. 825.101, F.S.; providing definitions; creating s. 825.102, F.S.; providing penalties for abuse or neglect of a disabled adult or elderly person; creating s. 825.103, F.S.; providing penalties for the exploitation of such persons; creating s. 825.104, F.S.; prohibiting a certain defense to prosecution; creating s. 825.105, F.S.; providing immunity from liability for certain good-faith assistance; creating s. 825.106, F.S.; providing for speedy trial in certain proceedings; amending s. 914.16, F.S.; amending a cross reference; amending s. 921.0012, F.S.; amending sentencing guidelines; repealing ss. 415.104, 415.1085, 415.109, and 415.111(3), (4), (5), F.S., relating to protective services investigations, use of photographs, medical examinations, and X rays, abrogation of privileged communications in cases of abuse, neglect, or exploitation of an elderly person or disabled adult, and penalties for abuse, neglect, or exploitation of an elderly person or disabled adult; amending s. 196.1975, F.S.; providing that certain corporations will not be disqualified for purposes of allocating certain tax credits under certain circumstances; creating the Panel for the Study of Skilled Nursing Care; providing for its membership and duties; requiring a report; delaying the effective date of s.19, ch. 93-214 and s. 4, ch. 94-206, Laws of Florida; providing that a certificate of need is not required for certain home health agencies; providing requirements relating to services provided through such agencies; providing that violation is a violation of the Florida Deceptive and Unfair Trade Practices Act; providing effective dates.

—was taken up out of order. On motions by Senator Forman, by two-thirds vote **CS for HB 1675** was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—2

On motion by Senator Jenne, by unanimous consent—

HB 343—A bill to be entitled An act relating to ad valorem tax administration; amending s. 196.161, F.S., which provides for imposition of a lien on property improperly granted a homestead exemption; eliminating the assessment of penalty and interest if the homestead exemption was granted as a result of a clerical mistake or omission by the property appraiser; amending s. 200.065, F.S.; providing requirements for advertisement with respect to certain taxing districts which collected less tax revenue than actually advertised; directing the Department of Revenue to conduct a study of the effect of delayed property value adjustments as they relate to TRIM rollback advertising; requiring a report; providing an effective date.

—was taken up out of order. On motions by Senator Jenne, by two-thirds vote **HB 343** was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—2

On motion by Senator Dudley, by unanimous consent—

HB 2311—A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges for specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges for specified county courts; providing a contingent effective date.

—was taken up out of order and read the second time by title. On motion by Senator Dudley, by two-thirds vote **HB 2311** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

On motion by Senator Thomas, by unanimous consent—

CS for CS for HB 1317—A bill to be entitled An act relating to saltwater fisheries; creating s. 370.0805, F.S.; creating a net ban assistance program to assist commercial saltwater products licensees adversely affected by adoption of the constitutional amendment limiting marine net fishing; providing for administration and enforcement by the Department of Environmental Protection; providing for assistance by other specified departments; providing eligibility criteria for economic assistance; providing for application for economic assistance; providing for economic assistance payments; providing a limit on such assistance; providing for purchase of commercial fishing gear rendered illegal or useless; providing for retraining programs; providing for funding of the program; providing for rules; providing for administration of certain economic assistance programs under certain circumstances; providing limitations; providing appropriations; requiring state agencies to give displaced saltwater products workers priority consideration for job vacancies; provid-

ing for designation of additional enterprise zones in certain affected communities; providing for identification of gear and vessel conversion grants and loans; creating s. 370.092, F.S.; providing for the carriage of banned nets across Florida waters; providing for permits; requiring display of permit numbers; requiring direct, continuous, and expeditious transit; providing for rescission of permits; providing penalties for violation of the constitutional net ban; providing for rules; providing for severability; providing an effective date.

—was taken up out of order and read the second time by title.

Senators Kirkpatrick and Thomas offered the following amendment which was moved by Senator Kirkpatrick:

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

Section 1. Section 370.0805, Florida Statutes, is created to read:

370.0805 Net ban assistance program.—

(1) INTENT.—

(a) In response to the adoption of s. 16, Art. X of the State Constitution, it is the intent of this section to establish a program, which shall be administered and enforced by the Department of Labor and Employment Security, in accordance with the provisions of this section, to provide economic assistance to commercial saltwater products licensees suffering certain losses in income as a result of the amendment, to purchase commercial fishing gear rendered illegal or useless by the amendment, and to retrain commercial fishermen economically displaced by the amendment.

(b) It is further the intent of this section that the Department of Labor and Employment Security work to clarify the eligibility of affected saltwater products workers for Job Training Partnership Act services and direct that they be given every priority as dislocated workers, including special outreach efforts, expanded accessibility through one-stop service centers, and enrollment in performance-based incentive training courses, where available.

(c) It is further the intent of this section that the Department of Commerce, the Department of Community Affairs, the Department of Labor and Employment Security, Enterprise Florida, Inc., and other economic development entities develop alternative industries, employment opportunities, and entrepreneurial ventures in the coastal communities directly or indirectly impacted by the new limitations on saltwater products workers. These economic development entities should place a special emphasis on utilizing the expertise of the Department of Environmental Protection, the Institute of Food and Agricultural Sciences, and Harbor Branch Oceanographic Institute to establish viable aquaculture operations in those affected communities.

(d) It is further the intent of this section that the Department of Environmental Protection work with the Department of Commerce and the Department of Community Affairs in identifying existing grants and low-interest loan programs which may be appropriate for the conversion of gear or vessels which are rendered useless under the constitutional limitation on marine net fishing, but which require conversion to be legally used for commercial saltwater fishing purposes.

(2) ELIGIBILITY FOR ECONOMIC ASSISTANCE.—The Department of Labor and Employment Security shall determine the eligibility of applicants for economic assistance under this section.

(a) Any person who has been convicted of more than two violations of any rule of the Marine Fisheries Commission or of any provision of chapter 370 in any single license year since 1991, or of more than four such violations from the period of 1991 through 1995, inclusive, shall not be eligible for economic assistance under this section.

(b) Only a person who was a resident of this state on November 8, 1994, is eligible to receive, or designate another resident to receive, economic assistance under this section.

(3) APPLICATION FOR ECONOMIC ASSISTANCE.—

(a) For economic assistance for lost income under this section, each saltwater products licensee shall apply to the Department of Labor and Employment Security on or before December 31, 1995. Lost income assistance under this section shall be provided based on a first-come, first-served basis determined by the date of receipt of each completed application.

(b) Each commercial saltwater products licensee, and each person holding a resident commercial fishing license pursuant to s. 372.65, who seeks economic assistance through the net buy-back program under this section shall apply to the Department of Labor and Employment Security beginning July 1, 1995, and ending December 31, 1995. Upon receipt of a completed application, eligibility will be established and the applicant will be scheduled to present eligible nets at the nearest available net-recovery facility. Nets will be purchased according to availability of funds on a first-come, first-served basis determined by the date of receipt of each completed application.

(4) ECONOMIC ASSISTANCE FOR LOSS OF INCOME.—

(a) Any fisher who is partially or totally unemployed as a result of the implementation of the net ban amendment in s. 16 of Art. X of the State Constitution, notwithstanding s. 443.036(19)(n)3., is eligible for retroactive elective coverage pursuant to s. 443.121(3)(a). Retroactive elective coverage shall be limited to fishers who, during the base period, as defined in s. 443.036, possessed a valid saltwater products license issued under s. 370.06 and had recorded landings of the species affected by the net ban. Eligible fishers may apply for retroactive elective coverage any time on or before December 31, 1995. Liability for contributions due as a result of retroactive coverage must be satisfied prior to the payment of unemployment benefits.

(b) In determining benefits under this subsection, wages shall be determined under chapter 443, but if wages cannot otherwise be determined, they shall be determined by multiplying total pounds of catch per calendar year as recorded on trip tickets by the unadjusted average annual coded species-grouping values published in the Marine Fisheries Information System's Annual Landings Summary limited to the following species and areas:

1. Bait Fish (Code 102).

2. Ballyhoo (Code 105).

3. Bluefish (Code 107).

4. Bluerunner (Code 109).

5. Croaker (Code 119).

6. Black Drum (Code 123)

7. Flounders (Codes 127, 291, 292, and 293).

8. Grunts (Code 151).

9. Jacks (Codes 157, 159, and 161).

10. Ladyfish (Code 167).

11. Spanish Mackerel (Code 219), if landed on the west coast of Florida.

12. Menhaden (Code 173), if not landed on the east coast of Florida or in Tampa Bay.

13. Mullet (Codes 175, 176, 177, 178, and 475).

14. Pinfish (Code 412).

15. Pompano (Code 183).

16. Spanish Sardines (Code 221), if not landed in Tampa Bay.

17. Scaled Sardines (Code 413).

18. Scad (Codes 129 and 117).

19. Shad (Codes 197 and 461).

20. Sheepshead (Code 201).

21. Spot (Code 225).

22. Seatrouts (Codes 191, 192, 193, and 195)

23. Whiting (Code 249).

24. Miscellaneous Industrial Fish (Code 253).

25. White Shrimp (Codes 335 and 336).

26. Spanish Mackerel (Code 219), if landed on the east coast of Florida and if the trip ticket amounts do not exceed 1,500 pounds per ticket.

27. Brown Shrimp (Codes 337 and 338), if the trip ticket amounts do not exceed 500 pounds per ticket.

28. Pink Shrimp (Codes 333 and 334), if the trip ticket amounts do not exceed 500 pounds per ticket.

29. Bait Shrimp (Codes 345 and 346), if landed on the east coast of Florida.

(c) Only landings reflected on trip tickets submitted to the Department of Environmental Protection and recorded by the Marine Fisheries Information System shall be used to determine eligibility for economic assistance. As used in this section, "trip tickets" means Marine Fisheries Trip Tickets, FDEP Form #33-610, submitted to the Department of Environmental Protection and edited and compiled in the Marine Fisheries Information System.

(d) To receive economic assistance under this subsection, a person eligible under paragraph (a) must be accepted and enrolled in an approved training program or have satisfactorily completed such a program, or have registered in a job-search program operated by the Department of Labor and Employment Security. Approved training programs shall include, but not be limited to, aquaculture research and training programs, opportunities provided by the Job Training Partnership Act and similar programs managed by the Department of Labor and Employment Security, and course offerings at state universities, vocational-technical schools, and community colleges.

(5) NET BUY-BACK PROGRAM.—

(a) All commercial saltwater products licensees and persons holding a resident commercial fishing license pursuant to s. 372.65 shall, upon application to and approval of the Department of Labor and Employment Security, receive economic assistance to compensate them for nets rendered illegal or useless by the constitutional limitation on marine net fishing, provided, however, that only commercial saltwater products licensees and persons holding a resident commercial fishing license pursuant to s. 372.65 who can document an annual gross income of $2,500 or more from net-caught landings of saltwater products during the period beginning July 1, 1991, and ending June 30, 1995. Such assistance shall be in nonnegotiable amounts not intended to reflect the actual value of the nets. Economic assistance to compensate such licensees for such nets, to be known as the net buy-back program, shall be as follows:

1. Deepwater gill nets at least 600 yards in length and composed of 50 mesh or more, $1,000.

2. Shallow-water gill nets at least 600 yards in length and composed of less than 50 mesh, $500.

3. Trammel nets at least 600 yards in length, $1,000.

4. Beach, purse, and seine nets at least 600 yards in length, $3,500.

5. Shrimp trawls of at least 500 square feet, $500.

Nets described in subparagraphs 1. through 4. which are less than 600 yards in length shall be valued proportionately.

(b) Economic assistance shall be available only for nets that could have been legally fished on June 30, 1995, and that are presented to the Department of Labor and Employment Security in the following manner:

1. Each net presented shall include only float line, webbing, and leadline.

2. Each net presented shall be cleaned of all debris, containments, and fish and shall be devoid of all ferous metals, doors, and "let go" weights.

(c) The number of qualifying nets for which a licensee may be paid shall be limited based on the licensee's average annual gross income attributable to the sale of eligible saltwater products during the 3-year period of July 1, 1991, through June 30, 1994, as follows:

1. Licensees averaging from $2,500 to $4,999 annually may not be paid for more than four nets.

2. Licensees averaging from $5,000 to $9,999 annually may not be paid for more than six nets

3. Licensees averaging from $10,000 to $19,999 annually may not be paid for more than eight nets.

4. Licensees averaging from $20,000 to $29,000 annually may not be paid for more than eight nets.

5. Licensees averaging more than $30,000 annually may not be paid for more than ten nets.

(d) No licensee may be paid for more than two shrimp trawls.

(e) Any net for which a licensee receives payment shall become the property of the department and shall be destroyed or disposed of in a manner that is not harmful to Florida's environment.

(6) RETRAINING PROGRAMS.—Retraining and job-search and placement programs shall be made available by the Department of Labor and Employment Security, to the extent that federal assistance funds are available, to retrain all commercial saltwater products licensees and saltwater products workers who are unable to continue their occupation under the constitutional limitation on marine net fishing and who apply for such a program. Such retraining programs may not be restricted to retraining solely in occupations relating to saltwater fisheries.

(7) RULES.—The Department of Labor and Employment Security shall adopt rules to carry out the provisions of this section and may enter into an interagency agreement with the Department of Environmental Protection to administer any provisions of this section.

Section 2. *The Secretary of Labor and Employment Security may allocate from the various retraining and support service programs of the department up to $10 million, over a 3-year period, to assist with retraining, job placement, transition assistance, support services, and other services to ensure that dislocated workers covered by this act reenter the workforce.*

Section 3. *To implement this act, the Executive Office of the Governor may transfer up to $20 million to the Seafood Workers Economic Assistance Account within the Special Employment Security Administration Trust Fund from the following sources, notwithstanding chapter 216, Florida Statutes, and other statutory restrictions regarding the use of trust fund revenues:*

(1) State funds that were appropriated to match federally funded programs but have not been expended as of June 30, 1995; and

(2) Unobligated and unappropriated trust fund balances of the Department of Labor and Employment Security, the use of which does not jeopardize agency operations.

Section 4. *(1) There is appropriated from the Seafood Workers Economic Assistance Account within the Special Employment Security Administration Trust Fund the sum of $20 million to the Department of Labor and Employment Security to purchase illegal or useless commercial fishing nets pursuant to section 370.0805, Florida Statutes.*

(2) Funds not expended in fiscal year 1995-1996 from the Seafood Workers Economic Assistance Account shall remain in that account for use by the program in subsequent years.

Section 5. *All state agencies must give priority consideration to any job applicant who is able to document the loss of full-time employment in the commercial saltwater fishing industry as a result of the adoption of the constitutional amendment limiting the use of nets to harvest marine species, provided the applicant meets the minimum requirements for the position sought.*

Section 6. *(1) The Department of Commerce is directed to identify communities suffering adverse impacts from the adoption of the constitutional amendment limiting the use of nets to harvest marine species.*

(2) Such communities having a population of less than 7,500 persons and such communities in rural and coastal counties with a county population of less than 20,000 may apply to the Department of Commerce by May 15, 1996, for the designation of an area as an enterprise zone. The community must comply with the requirements of s. 290.0055, Florida Statutes. Notwithstanding the provisions of s. 290.0065, Florida Statutes, limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the Department of Commerce may designate an enterprise zone in eight of the identified communities. The governing body having jurisdiction over

such area shall create an enterprise zone development agency pursuant to s. 290.0056, Florida Statutes, and submit a strategic plan pursuant to s. 290.0057, Florida Statutes. Enterprise zones designated pursuant to this section shall be effective July 1, 1996, and shall terminate December 31, 2005.

Section 7. Section 370.092, Florida Statutes, is created to read:

370.092 Carriage of proscribed nets across Florida waters.—

(1)(a) This section applies to all vessels containing or otherwise transporting in or on Florida waters any gill net or other entangling net and to all vessels containing or otherwise transporting in or on Florida waters any net containing more than 500 square feet of mesh area.

(b) This section does not apply to vessels containing or otherwise transporting in or on Florida waters dry nets which are rolled, folded, or otherwise properly stowed in sealed containers so as to make their immediate use as fishing implements impracticable.

(2) The department is authorized to create and administer a net transit permit program, upon this act becoming a law. The department shall issue a permit to:

(a) Persons and vessels that engage in lawful fishing operations using beyond Florida waters gill nets or other entangling nets.

(b) Persons and vessels that engage in lawful fishing operations using beyond nearshore and inshore Florida waters nets containing more than 500 square feet of mesh area.

(3) Beginning July 1, 1995, every vessel containing or otherwise transporting in or on Florida waters any gill net or other entangling net shall display the number of the permit issued pursuant to subsection (2). No person shall operate such a vessel unless the permit is on board and the permit number is displayed in a manner prescribed in subsection (5).

(4) Beginning July 1, 1995, every vessel containing or otherwise transporting in or on nearshore and inshore Florida waters any net containing more than 500 square feet of mesh area shall display the number of the permit issued pursuant to subsection (2). No person shall operate such a vessel unless the permit is on board and the permit number is properly displayed in the manner prescribed in subsection (5).

(5) The permit number required by this section shall be permanently and conspicuously displayed on the vessel so as to be readily identifiable from the air and the water. The display shall be as follows:

(a) The characters shall be in block characters of good proportion not less than 10 inches in height and shall read from left to right.

(b) The characters shall be of a solid color which will contrast with the background and shall be so maintained as to be clearly visible and legible.

(c)1. The permit number shall be displayed horizontally facing up on the uppermost structural portion of the vessel or similar area so as to be clearly visible from the air.

2. The permit number shall be permanently displayed on both the port and starboard sides of the vessel near amidship or on the vessel's superstructure so as to be clearly visible from the water.

(d) Notwithstanding any other provision of this act to the contrary, any vessel which displays a permit number required to fish in the federal Exclusive Economic Zone (EEZ), shall be in compliance with this act by displaying the letter N immediately following the number required to fish in the EEZ.

(6) Every vessel containing or otherwise transporting in or on Florida waters any gill net or other entangling net and every vessel containing or otherwise transporting in or on nearshore and inshore Florida waters any net containing more than 500 square feet of mesh area shall proceed as directly, continuously, and expeditiously as possible. Exceptions shall be provided for docked vessels, for vessels which utilize nets in aquaculture operations, for vessels anchored in state waters as long as no marine species are enmeshed in the gill or entangling nets on board, and vessels containing trawl nets as long as the trawl's doors or frame are not deployed in the water. Otherwise, hovering, drifting, and other similar activities inconsistent with the direct, continuous, and expeditious transit of such vessels shall be evidence of the unlawful use of such nets. The presence of fish in such a net is not evidence of the unlawful use of the net if the vessel is otherwise in compliance with this section.

(7) A permit issued pursuant to this section is free of charge, need not be renewed, and is valid until:

(a) There is a change in interest or ownership of the vessel for which a permit was issued; or

(b) The department rescinds or revokes the permit as provided in subsection (8).

(8)(a) The department may rescind a permit if it determines that the permit application contained false, fraudulent, or misleading information.

(b) In addition to being subject to the other penalties provided in this chapter, any violation of the constitutional net ban provisions shall be considered a major violation, and any person, firm, or corporation convicted of such violation shall be subject to the following additional penalties:

1. For a first major violation within a 7-year period, suspension of the saltwater products license for 90 days.

2. For a second major violation within a 7-year period, a civil penalty of $5,000 and suspension of the saltwater products license for 12 months.

3. For a third and subsequent major violation within a 7-year period, a civil penalty of $5,000, lifetime revocation of the saltwater products license, and forfeiture of all gear and equipment used in the violation.

(c) During the period of license suspension or revocation under this section, the licensee may not fish from any vessel that is harvesting those saltwater products involved in the violation which resulted in the suspension or revocation.

(d) Rescission and revocation proceedings under this section shall be governed by chapter 120.

(9) The department is authorized to make and adopt reasonable rules, regulations, and orders, including emergency rules, to implement this section.

Section 8. *If any portion of this act is held invalid for any reason, the remaining portion of this act, to the fullest extent possible, shall be severed from the void portion and given the fullest possible force and application.*

Section 9. This act shall take effect July 1, 1995.

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 saltwater fisheries; creating s. 370.0805, F.S.; creating a net ban assistance program to assist commercial saltwater products licensees adversely affected by adoption of the constitutional amendment limiting marine net fishing; providing for administration and enforcement; providing eligibility criteria for economic assistance; providing for application for economic assistance; providing for economic assistance payments; providing a limit on such assistance; providing for purchase of commercial fishing gear rendered illegal or useless; providing for retraining programs; providing for rules; providing for funding; providing appropriations; requiring state agencies to give displaced saltwater products workers priority consideration for job vacancies; providing for designation of additional enterprise zones in certain affected communities; providing for identification of gear and vessel conversion grants and loans; creating s. 370.092, F.S.; providing for the carriage of banned nets across Florida waters; providing for permits; requiring display of permit numbers; requiring direct, continuous, and expeditious transit; providing for rescission of permits; providing penalties for violation of the constitutional net ban; providing for rules; providing for severability; providing an effective date.

WHEREAS, the adoption of s. 16, Art. X of the State Constitution on November 8, 1994, resulting from the successful "Save Our Sealife" Constitutional Amendment Petition, will prohibit fishing for saltwater finfish, shellfish, and other marine animals with certain net gear in Florida waters beginning July 1, 1995, and

WHEREAS, although implementation of the constitutional amendment cannot ensure that all banned nets will be removed from state waters, it is in the state's interest, in carrying out this expressed will of the people to increase marine conservation measures, to provide incentives for the removal of as many banned nets as possible, and

WHEREAS, among its various effects, the constitutional net ban will, upon implementation, displace certain commercial users of marine resources, and

WHEREAS, both the supporters and the opponents of the constitutional amendment favor some form of economic incentive to aid commercial users who suffer losses in their transition to other employment necessitated by adoption of the constitutional amendment, and

WHEREAS, the "Save our Sealife" Constitutional Amendment Petition, adopted November 8, 1994, will ban the use of certain nets in Florida waters, beginning July 1, 1995, and

WHEREAS, implementing legislation, although not required for enforcing any violations of the net ban, will nonetheless facilitate enforcement of the net ban and prosecution of violations of the net ban, and

WHEREAS, the enforcement of the net ban will require that vessels containing nets be stopped and inspected to determine compliance with the ban, and

WHEREAS, the use of those banned nets will remain lawful beyond Florida waters, and

WHEREAS, it is appropriate to lessen the burden on vessels transiting Florida waters in connection with lawful fishing operations using nets beyond Florida waters by developing a mechanism to determine which vessels engage in lawful fishing operations using nets beyond Florida waters and to identify those vessels from a distance so as to avoid unnecessarily interfering with their continuous and expeditious transit, NOW, THEREFORE,

Senator Kirkpatrick moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—On page 13, lines 17 and 18, strike "*the constitutional net ban provisions*" and insert:

Section 16. Article X of the State Constitution or any rules of the Marine Fisheries Commission which implement the gear prohibitions and restrictions specified therein

Senator Jones moved the following amendment to **Amendment 1** which was adopted:

Amendment 1B (with Title Amendment)—On page 14, strike line 15 and insert:

Section 9. Effective upon this act becoming a law, paragraph (c) of subsection (2) of section 370.021, Florida Statutes, 1994 Supplement, is amended to read:

370.021 Administration; rules, publications, records; penalty for violation of chapter; injunctions.—

(2) PENALTY FOR VIOLATION.—Unless otherwise provided by law, any person, firm, or corporation who is convicted for violating any provision of this chapter, any rule of the department adopted pursuant to this chapter, or any rule of the Marine Fisheries Commission, shall be punished:

(c) In addition to the penalties provided in paragraphs (a) and (b), the court shall assess additional penalties against any person, firm, or corporation convicted of major violations as follows:

1. For a violation involving more than 100 illegal *blue crabs*, crawfish, or stone crabs, an additional penalty of $10 for each illegal *blue crab*, crawfish, stone crab, or part thereof.

2. For a violation involving the taking or harvesting of shrimp from a nursery or other prohibited area, an additional penalty of $10 for each pound of illegal shrimp or part thereof.

3. For a violation involving the taking or harvesting of oysters from nonapproved areas or the taking or possession of unculled oysters, an additional penalty of $10 for each bushel of illegal oysters.

4. For a violation involving the taking or harvesting of clams from nonapproved areas, an additional penalty of $100 for each 500 count bag of illegal clams.

5. For a violation involving the taking, harvesting, or possession of any of the following species, which are endangered, threatened, or of special concern:

a. Shortnose sturgeon (Acipenser brevirostrum);

b. Atlantic sturgeon (Acipenser oxyrhynchus);

c. Common snook (Centropomus undecimalis);

d. Atlantic loggerhead turtle (Caretta caretta caretta);

e. Atlantic green turtle (Chelonia mydas mydas);

f. Leatherback turtle (Dermochelys coriacea);

g. Atlantic hawksbill turtle (Eretmochelys imbricata imbracata);

h. Atlantic ridley turtle (Lepidochelys kempi); or

i. West Indian manatee (Trichechus manatus latirostris),

an additional penalty of $100 for each unit of marine life or part thereof.

6. For a second or subsequent conviction within 24 months for any violation of the same law or rule involving the taking or harvesting of more than 100 pounds of any finfish, an additional penalty of $5 for each pound of illegal finfish.

7. For any violation involving the taking, harvesting, or possession of more than 1,000 pounds of any illegal finfish, an additional penalty equivalent to the wholesale value of the illegal finfish.

8.a. In addition to being subject to the other penalties provided in this chapter, any intentional violation of rule 46-4.007(1), Florida Administrative Code, shall be considered a major violation, and any person, firm, or corporation committing such violation shall be subject to the following additional penalties:

(I) For a first violation within a 7-year period, suspension of the saltwater products license for 90 days.

(II) For a second major violation within a 7-year period, a civil penalty of $5,000 and suspension of the saltwater products license for 12 months.

(III) For a third or subsequent major violation within a 7-year period, a civil penalty of $5,000, lifetime revocation of the saltwater products license, and forfeiture of all gear and equipment used in the violation.

b. During any period of license suspension or revocation under this section, the licensee may not fish from any vessel that is harvesting saltwater products.

c. The Department of Environmental Protection may bring a civil action to enforce the civil penalties prescribed in this section.

Notwithstanding the provisions of s. 948.01, no court may suspend, defer, or withhold adjudication of guilt or imposition of sentence for any major violation prescribed in this paragraph.

Section 10. Effective upon this act becoming a law, subsection (2) of section 370.13, Florida Statutes, 1994 Supplement, is amended, and subsections (6) and (7) are added to said section, to read:

370.13 Stone crab; regulation.—

(2) Upon the arrest and conviction for *a major* violation *involving stone crabs* ~~of any of the stone crab regulations~~, the licenseholder must show just cause why his license should not be suspended or revoked. *For the purposes of this subsection, a "major violation" means a major violation as prescribed in s. 370.021(2)(c) for illegal stone crabs; any single violation involving possession of more than 25 stone crabs during the closed season or possession of 25 or more whole-bodied or egg-bearing stone crabs; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 75 illegal stone crabs in the aggregate are involved.*

(6)(a) Effective July 1, 1995, and until July 1, 1999, no stone crab trap numbers issued pursuant to Rule Chapter 46-3.002(2)(f), F.A.C., except those numbers that are active during the 1994-1995 fiscal year, shall be renewed or replaced.

(b) In 1995, persons holding a trap number that was active in the 1994-1995 fiscal year, or an immediate family member of that person, must request renewal of the number prior to December 31, 1995.

(c) In subsequent years and until July 1, 1999, a trap number holder, or members of his or her immediate family, must request renewal of the number prior to September 30 of each year.

(d) If a person holding an active trap number, or a member of that person's immediate family, does not request renewal of the number before the applicable dates as specified in this subsection, the department shall deactivate that trap number.

(e) In the event of the death of a person holding an active trap number, the trap number may be renewed by any person so designated by the executor of the estate.

(f) Persons who hold saltwater products licenses with stone crab endorsements issued to their boat registration numbers and who subsequently replace their existing vessels with new vessels shall be permitted to transfer the existing licenses to the new boat registration numbers.

(7) Beginning October 1995, stone crabs shall be designated as a restricted species pursuant to s. 370.01(20).

Section 11. Effective upon this act becoming a law, subsection (4) of section 370.135, Florida Statutes, is amended to read:

370.135 Blue crab; regulation.—

(4) Upon the arrest and conviction for *a major* violation *involving blue crabs* ~~of any of the blue crab regulations or laws~~, the licenseholder shall show just cause why his saltwater products license should not be suspended or revoked. This subsection shall not apply to an individual fishing with no more than five traps. *For the purposes of this subsection, a "major violation" means a major violation as prescribed in s. 370.021(2)(c) for illegal blue crabs, any single violation wherein 50 or more illegal blue crabs are involved, or any combination of violations in any 3-consecutive-year period wherein more than 100 illegal blue crabs in the aggregate are involved.*

Section 12. Effective upon this act becoming a law, subsection (6) of section 370.14, Florida Statutes, 1994 Supplement, is amended to read:

370.14 Crawfish; regulation.—

(6) Upon the arrest and conviction for *a major* violation *involving crawfish* ~~of any of the crawfish regulations or laws~~, the licenseholder must show just cause why his license should not be suspended or ~~permanently~~ revoked. *For the purposes of this subsection, a "major violation" means a major violation as prescribed in s. 370.021(2)(c) for illegal crawfish; any single violation involving possession of more than 25 crawfish during the closed season or possession of more than 25 wrung crawfish tails or more than 25 egg-bearing or stripped crawfish; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 75 illegal crawfish in the aggregate are involved.*

Section 13. Effective upon this act becoming a law, paragraphs (f) and (g) are added to subsection (3) of section 370.153, Florida Statutes, paragraphs (h) and (i) of subsection (4) of said section are amended, and paragraph (k) is added to subsection (4), to read:

370.153 Regulation of shrimp fishing; Clay, Duval, Nassau, Putnam, Flagler, and St. Johns Counties.—

(3) ° LIVE BAIT SHRIMP PRODUCTION.—

(f) Live shrimp producers must also be licensed wholesale dealers. Such person shall not sell live bait shrimp unless he produces a live bait shrimp production license at the time of sale.

(g) The department shall rename the Live Bait Shrimp Production License as the Commercial Live Shrimp Production License.

(4) DEAD SHRIMP PRODUCTION.—Any person may operate as a commercial dead shrimp producer provided that:

(h) It is illegal for any person to sell dead shrimp caught in the *inland waters of Nassau, Duval, Clay, Putnam, and St. Johns Counties* ~~St. Johns River~~, unless the seller is in possession of a dead shrimp production license issued pursuant to this subsection.

(i) It is illegal for any person to purchase shrimp for consumption *or bait* from any seller (with respect to shrimp caught in the *inland waters of Nassau, Duval, Clay, Putnam, and St. Johns Counties* (St. Johns River) who does not produce his *or her* dead shrimp production license prior to the sale of the shrimp.

(k) The department shall rename the Dead Shrimp Production License as the Commercial Food Shrimp Production License.

Section 14. Except as otherwise expressly provided in this act, this act shall take effect July 1, 1995.

And the title is amended as follows:

In title, on page 15, line 28, after the semicolon (;) insert: amending s. 370.021, F.S.; providing that a violation involving a specified number of illegal blue crabs constitutes a major violation; providing penalties; amending ss. 370.13, 370.135, and 370.14, F.S., relating to the regulation of stone crabs, blue crabs, and crawfish; providing that only major violations shall require just cause to show why a license should not be suspended or revoked; providing definitions of the term "major violation" to include additional violations that constitute a major violation for such purpose; providing for a restriction on the renewal of certain stone crab numbers; designating stone crabs as a restricted species; providing for renewal of trap numbers in the event of the death of a person holding an active trap number; providing for transferal of certain licenses when vessels are replaced; amending s. 370.153, F.S.; providing additional requirements with respect to live shrimp production; revising language with respect to dead shrimp production; renaming certain licenses;

Amendment 1 as amended was adopted.

On motion by Senator Thomas, by two-thirds vote **CS for CS for HB 1317** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

On motion by Senator Thomas, by unanimous consent—

HB 2689—A bill to be entitled An act relating to trust funds; creating the Seafood Workers Economic Assistance Trust Fund within the Department of Environmental Protection; providing for source of moneys and purposes; providing for future review and termination or re-creation of the trust fund; providing a contingent effective date.

—was taken up out of order and read the second time by title. On motion by Senator Thomas, by two-thirds vote **HB 2689** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—40 Nays—None

On motion by Senator McKay, by two-thirds vote **HB 1299** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator McKay, by unanimous consent—

HB 1299—A bill to be entitled An act relating to the City of Arcadia, DeSoto County; repealing sections 31 and 31.1 of the City Charter of the City of Arcadia; adopting a new section of the City Charter of the City of Arcadia which provides that all elections for the election of officers of the City of Arcadia shall be held and conducted in the manner prescribed in the City Code of the City of Arcadia with an exception when there is no applicable City Code provision; requiring rejection of any City Code provision that conflicts with a Florida Election Code provision that expressly applies to municipalities; providing an effective date.

—was taken up out of order. On motions by Senator McKay, by two-thirds vote **HB 1299** was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—1

On motion by Senator Williams, by two-thirds vote **CS for CS for HB 1639** was withdrawn from the Committees on Transportation; Commerce and Economic Opportunities; and Ways and Means.

On motion by Senator Williams, by unanimous consent—

CS for CS for HB 1639—A bill to be entitled An act relating to taxation of fuels; revising part I of chapter 206, F.S., relating to taxation of motor fuel; revising definitions; replacing "refiners" with "terminal suppliers"; providing for licensing, bonding, and refund or credit requirements applicable to terminal suppliers and exporters, and for application of enforcement and penalty provisions; removing references to "jobbers"; revising licensing requirements for carriers; requiring licensing of persons transporting fuel by pipeline or marine vessel; providing penalties; revising bond requirements applicable to importers and wholesalers; creating s. 206.051, F.S.; providing credit authorization and bonding requirements for importers and exporters; providing for credits and refunds; providing penalties; creating s. 206.052, F.S.; providing conditions and requirements for export of tax-free motor fuel by exporters; creating s. 206.054, F.S.; providing for payment of tax on imported fuel by importers; providing for licensing of out-of-state terminal suppliers to precollect tax; authorizing the Department of Revenue to require a terminal supplier, wholesaler, or importer to make direct payment of taxes under certain conditions; authorizing cancellation of licenses for filing false claims; authorizing the department to enter into interstate enforcement agreements; repealing s. 206.065, F.S., relating to authority to self-accrue taxes, and purchases for resale to the Federal Government; providing requirements relating to monthly returns by carriers; providing recordkeeping and disclosure requirements; creating s. 206.199, F.S.; providing requirements with respect to transportation of fuel by pipeline or marine vessel; providing requirements for transportation of fuel over public highways; prohibiting the transportation of taxable fuels upon which tax has not been paid; providing exceptions; providing penalties; providing for application of forfeiture provisions; providing for separate statement of local option taxes; prohibiting certain advertising with respect to absorbing taxes; providing penalties; providing liability of persons who cannot prove payment of tax to their suppliers; providing license requirements for retail dealers and resellers; providing for temporary licenses; requiring such persons to make records available to the department; providing penalties; replacing references to "gas tax" with "fuel tax" and renaming trust funds; consolidating the imposition of the constitutional, county, and municipal fuel taxes, local option motor fuel taxes, the State Comprehensive Enhanced Transportation System Tax, and the tax on the privilege of selling motor fuel, under s. 206.41, F.S.; specifying the transactions on which the taxes are imposed; providing for credits and refunds and administration thereof; providing fees and penalties; creating s. 206.414, F.S.; providing for collection of local option taxes and the State Comprehensive Enhanced Transportation System Tax and prohibiting certain credits and refunds; creating s. 206.416, F.S.; providing procedures and requirements for a change in the state destination of fuel; providing for payment of tax or credit or refund for tax paid, as applicable; providing penalties; repealing ss. 206.425 and 206.426, F.S., relating to tax-exempt purchasers and resale and exemption certificates; providing requirements for remitting of taxes; providing allowances for services and expenses and requirements with respect thereto; authorizing wholesalers to remit taxes by electronic funds transfer; providing rights and duties of terminal suppliers and position holders; requiring wholesalers to self-accrue certain taxes; providing for refunds and credits; providing for correction of reporting errors; providing penalties; providing for tax on inventory; providing reporting requirements for terminal suppliers, importers, exporters, and wholesalers; transferring provisions relating to use of State Comprehensive Enhanced Transportation System Tax proceeds to s. 206.608, F.S.; repealing s. 9, ch. 94-146, Laws of Florida, which provides a future amendment relating to administrative costs of said tax, and transferring those provisions to said section; revising part II of chapter 206, F.S., relating to taxation of special fuel; revising definitions; replacing references to "special fuel" with "diesel fuel"; consolidating imposition of the 4-cent excise tax on diesel fuel, local option fuel taxes, the State Comprehensive Enhanced Transportation System Tax, and the tax on the privilege of selling diesel fuel, under s. 206.87, F.S.; specifying the transactions on which the taxes are imposed; creating s. 206.872, F.S.; specifying persons liable for payment of such taxes; providing penalties; creating s. 206.873, F.S.; providing for a backup tax; creating s. 206.8735, F.S.; providing inspection powers of the department; providing penalties; creating s. 206.874, F.S.; providing exemptions; imposing requirements on local governments, school districts, and mass transit systems to qualify for exemptions; creating s. 206.8741, F.S.; providing dyeing and marking requirements and related notice requirements; providing a penalty; creating s. 206.8745, F.S.; providing for refunds and credits; removing references to dealers; providing bonding requirements applicable to terminal suppliers, importers, and wholesalers; providing for computation and payment of taxes; providing allowances for services and expenses and requirements with respect thereto; revising part III of chapter 206, F.S., relating to the tax on aviation fuel, to conform; revising part IV of chapter 206, F.S., relating to the taxes on fuel and other pollutants, to conform; revising the method of imposition of the taxes for coastal protection and water quality on petroleum products; revising the method of imposition of the tax for inland protection; amending ss. 10, 11, and 12, ch. 94-146, Laws of Florida; revising provisions relating to deduction of administrative costs for fuel taxes, to conform; revising chapter 207, F.S., relating to the tax on the operation of commercial motor vehicles, to conform; amending s. 212.02, F.S.; defining "diesel fuel" for purposes of the tax on sales, use, and other transactions; repealing s. 212.05(1)(g), F.S., relating to the tax on the sale of fuel; creating s. 212.0501, F.S.; requiring persons who purchase diesel fuel for use in a business to register as a dealer and remit use tax thereon; providing exemptions; providing for distribution of certain proceeds; amending s. 212.08, F.S.; revising the exemption for fuels; revising the exemption for motor vehicles engaged in interstate commerce; amending and renumbering s. 212.69, F.S., relating to distribution of proceeds of the tax on the sale of fuels; repealing the remainder of part II of chapter 212, F.S., which provides for said tax; repealing s. 6, ch. 94-146, Laws of Florida, which provides a future amendment to administrative provisions repealed by this act; amending s. 336.021, F.S.; restricting application of said section to procedures and requirements for levy of the ninth-cent fuel tax by counties and distribution and use of the proceeds thereof; revising the allowance for services and expenses; revising distribution provisions; revising dates of imposition; amending s. 336.025, F.S.; restricting application of said section to procedures and requirements for levy of the local option fuel taxes by counties and distribution and use of the proceeds thereof; revising the allowance for services and expenses; revising distribution provisions; revising dates of imposition; amending ss. 213.015, 213.05, 213.055, 213.29, 213.70, and 213.755, F.S.; revising administrative provisions to conform; amending ss. 72.011, 72.041, 215.20, 215.36, 215.47, 215.605, 215.74, 334.065, and 376.3071, F.S., to conform; amending s 525.09, F.S.; providing the manner of imposition of the fee for inspection of petroleum fuels; providing for cancellation of all refiner, wholesaler, importer, jobber, special fuel dealer, and retail dealer licenses on July 1, 1996; requiring licensing under chapter 206, as amended by this act, and providing requirements with respect thereto; providing for future review of the exemptions for use on a farm and for sales to the United States Government; providing effective dates.

—was taken up out of order and read the second time by title. On motion by Senator Williams, by two-thirds vote **CS for CS for HB 1639** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—2

On motion by Senator Bronson, by two-thirds vote **HB 2431** was withdrawn from the Committees on Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Bronson, by unanimous consent—

HB 2431—A bill to be entitled An act relating to the Florida National Guard; amending s. 250.10, F.S.; providing for an Assistant Adjutant General for Army and an Assistant Adjutant General for Air; amending s. 250.34, F.S., relating to compensation while injured and prescribing limitation of benefits while on active service and subject to disability pay; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Bronson, by two-thirds vote **HB 2431** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—2

On motions by Senator Jennings—

HCR 2743—A concurrent resolution extending the 1995 regular legislative session under the authority of Article III, Section 3 (d) of the State Constitution; establishing limitations on the scope of legislation to be considered; providing for recess.

—was taken up out of order by unanimous consent and by two-thirds vote read the second time in full, adopted by the required constitutional three-fifths vote of the members present and voting and certified to the House. The vote on adoption was:

Yeas—40 Nays—None

On motions by Senator Burt—

HCR 2741—A concurrent resolution relating to legislative intent with respect to CS for CS for HB 1853.

—was taken up out of order by unanimous consent and by two-thirds vote read the second time in full, adopted and certified to the House. The vote on adoption was:

Yeas—38 Nays—None

On motion by Senator Myers, by unanimous consent—

HB 2077—A bill to be entitled An act relating to the St. Lucie County-Fort Pierce Fire District; changing the name to St. Lucie County Fire District; amending the charter to incorporate all subsequent amendments; changing the interest rate; repealing all previous acts relating to the fire district; providing an effective date.

—was taken up out of order. On motions by Senator Myers, by two-thirds vote **HB 2077** was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

HB 2471—A bill to be entitled An act relating to insurance; amending s. 627.7295, F.S.; requiring the collection of at least 2 months' premium for initial issuance of a motor vehicle insurance policy or binder; specifying applicability; providing exceptions; amending s. 627.837, F.S.; providing that restrictions on rebates or inducements do not prohibit ownership of a premium finance company by insurance agents; providing for legislative review and future repeal; amending s. 627.8405, F.S.; deleting provision specifying the maximum portion of a premium that may be financed; amending s. 627.841, F.S.; increasing the maximum charge for dishonored checks; providing an effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote **HB 2471** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

On motion by Senator Horne, by two-thirds vote **HB 721** was withdrawn from the Committees on Higher Education; and Ways and Means.

On motion by Senator Horne—

HB 721—A bill to be entitled An act relating to postsecondary education; amending s. 240.1201, F.S.; providing that certain members of the United States Armed Services be classified as residents for tuition purposes; providing qualifications; providing an effective date.

—a companion measure, was substituted for **CS for SB 278** and read the second time by title. On motion by Senator Horne, by two-thirds vote **HB 721** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

SB 1488—A bill to be entitled An act relating to postsecondary education; amending s. 240.147, F.S.; providing requirements relating to the master plan prepared by the Postsecondary Education Planning Commission; amending s. 240.209, F.S., relating to Board of Regents' duties; renaming the systemwide master plan as the systemwide strategic plan and providing requirements thereof; amending ss. 240.2093, 240.214, 240.227, 240.299, 243.151, and 282.308, F.S.; conforming provisions; creating s. 240.6045, F.S.; establishing a limited access competitive grant program; providing for identification of high priority employment fields; providing student eligibility; providing for award of grants; providing for rules; providing for an accountability process; amending s. 240.605, F.S., relating to Florida resident access grants; providing for a trust fund and specifying requirements thereof; revising provisions relating to the amount of grants; amending s. 471.015, F.S.; revising requirements relating to licensure by endorsement as an engineer; providing an effective date.

—was read the second time by title.

The Committee on Higher Education recommended the following amendment which was moved by Senator Kirkpatrick and adopted:

Amendment 1 (with Title Amendment)—On page 12, between lines 3 and 4, insert:

Section 13. Paragraph (a) of subsection (1) of section 246.085, Florida Statutes, 1994 Supplement, is amended to read:

246.085 Certificate of exemption.—

(1) As an alternative to applying for a license from the board, the following nonpublic colleges may apply for a certificate of exemption from the board:

(a) Colleges chartered in Florida and accredited by:

1. The Commission on Colleges of the Southern Association of Colleges and Schools;

2. The Accrediting Commission for Independent Colleges and Schools of the Career College Association at the junior or senior college of business level;

3. The American Association of Bible Colleges; ~~or~~

4. The Transnational Association of Christian Colleges and Schools; or

5.~~4.~~ An agency recognized by the Commission on Recognition of Postsecondary Accreditation to accredit professional degree programs above the baccalaureate level.

Each nonpublic college seeking exemption pursuant to this paragraph shall submit to the board a current catalog and a letter from the recognized accrediting agency by whom the college is accredited, confirming the current accredited status of the college.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 25, following the semicolon (;) insert: amending s. 246.085, F.S.; providing an exemption from state licensure for certain colleges and schools;

On motion by Senator Kirkpatrick, by two-thirds vote **SB 1488** 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 motions by Senator Jennings, the rules were waived and by two-thirds vote **SB 2454, SB 2242, CS for SB 1034** and **HB 571** were placed on the Special Order Calendar to be considered following **SB 946**.

On motions by Senator Grant, by two-thirds vote—

HB 2445—A bill to be entitled An act relating to organ and tissue donation; creating s. 320.08047, F.S.; providing for voluntary contributions for organ and tissue donor education as a part of the motor vehicle license tax process; amending s. 322.08, F.S.; providing for voluntary contributions for organ and tissue donor education as a part of the driver license application process; creating s. 395.2050, F.S.; providing for routine inquiry for organ or tissue donation; requiring certification for procurement activities; amending s. 395.3025, F.S.; providing disclosure of patient records to organ procurement organizations, tissue banks, and eye banks for specified purposes; amending s. 732.912, F.S.; providing procedures for making an anatomical gift; amending s. 732.914, F.S.; providing procedures regarding the manner of executing anatomical gifts; amending s. 732.915, F.S.; establishing an organ and tissue donor registry; providing procedures; providing for funding; amending s. 732.916, F.S.; providing for revocation of gifts by oral statements; amending s. 732.917, F.S.; allowing certain procedures for preserving a potential donor's organs; providing for expenses; amending s. 732.921, F.S.; conforming references to transfer of responsibilities regarding donor programs from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; providing for use of driver licenses or identification cards to indicate the individual's intent to donate organs or tissue; amending s. 732.9215, F.S.; requiring the agency to undertake certain responsibilities regarding educational programs; creating s. 732.9216, F.S.; establishing an organ and tissue donor education panel; providing duties and membership qualifications; providing for per diem and travel expenses; amending s. 732.922, F.S.; providing duties of hospital administrators in obtaining consent for organ or tissue donation; providing an appropriation; providing an effective date.

—a companion measure, was substituted for **CS for SB's 2906 and 1950** and by two-thirds vote was read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 2445** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—1

On motion by Senator Grant, by unanimous consent—

HB 2447—A bill to be entitled An act relating to trust funds; creating the Florida Organ and Tissue Donor Education Trust Fund, to be administered by the Agency for Health Care Administration; providing for source of moneys and purposes; providing for future review and termination or re-creation of the fund; providing a contingent effective date.

—was taken up out of order. On motions by Senator Grant, by two-thirds vote **HB 2447** was read the second time by title, and by two-thirds vote read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—35 Nays—1

Consideration of **SB 2908** was deferred.

CS for SB 1808—A bill to be entitled An act relating to health care; amending ss. 154.304, 154.306, 154.308, 154.309, 154.31, 154.3105, 154.312, F.S., relating to the Florida Health Care Responsibility Act of 1988; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; amending ss. 409.901, 409.902, 409.903, 409.904, 409.905, F.S., relating to the Medicaid program; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; providing additional definitions; incorporating technical revisions; providing for eligibility of certain persons for specified health care services; amending s. 409.907, F.S.; providing additional requirements for Medicaid provider agreements; authorizing the agency to review and approve Medicaid applications; requiring the agency to adopt rules; prohibiting the agency from contracting with certain providers; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; amending s. 409.908, F.S., relating to reimbursement of Medicaid providers; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; revising the methodology for reimbursing prepaid plan providers and for labor management in a birth center; authorizing reimbursement of home deliveries by licensed midwives; amending s. 409.9081, F.S., relating to copayments or coinsurance payments for certain Medicaid services; deleting references to specific services, a copayment study requirement, and copayment exceptions; specifying that copayments and coinsurance requirements will be determined by the General Appropriations Act; creating s. 409.9102, F.S.; authorizing the Agency for Health Care Administration, in administering the Medicaid program, to petition for a court order garnishing wages of persons under certain circumstances; amending ss. 409.911, 409.9112, 409.9113, 409.9115, F.S., relating to disproportionate share programs; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; creating s. 409.9118, F.S.; specifying requirements for the provision of emergency services and care by certain provider entities; amending s. 409.912, F.S., relating to the purchase of goods and services for Medicaid recipients; conforming provisions to the transfer of responsibilities for the Medicaid program from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; revising requirements for contracting with entities providing prepaid health and mental health services and for Department of Insurance certification of entities providing prepaid health care services; deleting the requirement that certain guaranteeing organizations be nonprofit entities; providing requirements for reimbursements to hospitals and physicians that provide services on a prepaid or fixed-sum basis; requiring the agency to establish a health care quality-improvement system for certain Medicaid prepaid plan providers and managed-care providers; specifying the elements of the system; requiring Medicaid prepaid plan providers and MediPass providers to provide certain member services; specifying certain care, and documentation of care, provided to Medicaid prepaid plan and MediPass enrollee infants and pregnant women; prohibiting certain enrollment or selection incentives and activities; authorizing certain marketing and enrollment activities; requiring marketing materials in foreign languages to be made available under certain circumstances; providing for fines by the agency for violations of s. 409.912, F.S., and calculation of fine amounts; providing for recipient disenrollment under certain circumstances; requiring enrollment personnel to meet certain requirements; requiring recipient access to a complaint hotline and assistance panel; requiring prepaid health plans to have a grievance procedure; specifying contents; requiring recipient-satisfaction surveys; requiring Department of Insurance certification for certain agency applicants; requiring annual publication of certain provider information; requiring certain Medicaid recipient patient counseling; authorizing the agency to develop a rule and contract for certain monitoring activities; amending s. 409.9122, F.S.; requiring an evaluation of MediPass; providing requirements for the agency in enrolling Medicaid recipients in managed care plans or MediPass; authorizing the agency to request a federal waiver for the purpose of establishing certain prepaid programs; requiring the agency to appoint a panel to review the provision of Medicaid managed-care services to special populations; requiring the agency to select MediPass primary care providers for chronically ill children; requiring the agency to develop patient care standards; requiring the agency to conduct a pilot project for bidding prepaid health plan services; amending s. 409.913, F.S., relating to Medicaid program integrity; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; expanding duties relating to recovery of overpayments and improper payments and imposition of sanctions; providing definitions; authorizing the use of applicable peer-review organization findings as evidence; providing notice procedures and requirements; providing additional requirements for claims; authorizing the agency to review records and conduct other investigations; limiting certain payments to billing agents; specifying conditions, limitations, and procedures for withholding provider Medicaid payments; providing for notice; providing for in-camera inspection of evidence; providing additional grounds for imposition of administrative sanctions; providing for suspension or termination of providers; providing civil remedies and fines; requiring notice under described circumstances; authorizing certain use of statistical evidence; amending recovery amount for investigative and expert costs; providing agency authority to collect moneys owed, including certain interest; amending s. 409.914, F.S., relating to assistance for the uninsured; conforming provisions to the transfer of responsibilities from

the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; amending ss. 409.916, 409.919, 409.920, F.S., relating to the deposit of grants and rebates, agency rules, and Medicaid provider fraud; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; creating s. 624.3103, F.S.; prohibiting insurers from considering an insured's eligibility for Medicaid when considering eligibility for coverage or when making payments; creating s. 624.3104, F.S.; prohibiting insurers and employers from denying enrollment of a child under certain conditions; requiring certain claims procedures when a child is provided coverage through an insurer of a noncustodial parent; requiring the employer to withhold compensation from the employee for premiums; amending s. 641.21, F.S.; specifying time frames by which and circumstances under which certain entities must receive Department of Insurance certification; amending s. 641.386, F.S.; requiring certain marketing representatives to meet specified criteria; providing appropriations; repealing s. 641.225(4), (6), F.S., relating to surplus requirements for certain entities; providing an effective date.

—was read the second time by title.

Senator Gutman moved the following amendment:

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

Section 1. Legislative findings and intent.—The Legislature finds that Medicaid expenditures for nursing home services continue to increase at a rapid rate and that Florida, more than any other state, faces increasing pressure in its efforts to meet the long-term-care needs of its citizens. The Legislature finds that systems of care developed under the state's network of programs for persons who are elderly or disabled provide substantial benefit and irreplaceable long-term-care services. The Legislature further finds that improved integration of services and the use of managed-care principles in the delivery of long-term care may offer opportunities to increase access to services while decreasing inappropriate utilization. It is, therefore, the intent of the Legislature that the Department of Elderly Affairs, in coordination with the Agency for Health Care Administration, the Department of Insurance, and the Department of Health and Rehabilitative Services, develop innovative and cost-effective systems for delivering quality long-term care which use managed-care delivery and reimbursement principles, include contractual partnerships between the public and private providers of community long-term care, and include the safeguards necessary to ensure that the services delivered are appropriate in scope and quality.

Section 2. Short title.—This act may be cited as the "Managed Long-term Care Act of 1995."

Section 3. Definitions.—As used in this act, except where otherwise specifically provided, the term:

(1) "Agency" means the Agency for Health Care Administration.

(2) "Department" means the Department of Elderly Affairs.

(3) "Long-term care" means services, including health care, personal care, social services, and economic assistance, delivered over a sustained period of time in a variety of settings ranging from a person's own home to institutional settings, intended to ensure quality of life for all persons, regardless of age.

Section 4. Subsection (4) is added to section 20.41, Florida Statutes, 1994 Supplement, to read:

20.41 Department of Elderly Affairs.—There is created a Department of Elderly Affairs.

(4) The department shall have lead responsibility for coordinating the state's long-term-care policy. However, nothing in this section shall be construed to inhibit the ability of the Medicaid program to perform its functions as required by state or federal law, rule, or regulation, or the ability of other programs that provide long-term care to disabled persons from exercising full discretion in developing long-term-care policy in their respective areas of responsibility.

Section 5. (1) The Department of Elderly Affairs and the Agency for Health Care Administration shall establish demonstration projects to provide managed long-term care.

(2) Prior to implementing the demonstration projects, the department and the agency shall:

(a) Assess the actuarial soundness of capitation rates paid to the health maintenance organizations that currently contract with Medicaid to provide long-term care, and assess the feasibility of developing alternative rate-setting methodologies, including fee-for-service rates, which reflect the cost of providing long-term care in a managed-care delivery system.

(b) Conduct a review of the standards contained in existing Medicaid managed-care contracts that include payment for nursing home services, to assess the appropriateness and applicability of such standards and to recommend modifications of the standards that will increase service access or quality or reduce service costs.

(c) Analyze the findings of the medical quality-assurance audits and enrollee-satisfaction surveys of health maintenance organizations that contract with Medicaid to provide long-term care.

(d) Analyze the disenrollments and grievance proceedings of health maintenance organizations that contract with Medicaid to provide long-term care.

(e) Evaluate the feasibility of implementing a fee-for-service managed long-term care program that utilizes a gatekeeper to manage access to and appropriate utilization of long-term care.

(f) Perform the fiscal and policy analysis necessary to determine the requirements for joint Medicaid and Medicare risk-based and fee-for-service long-term and acute-care contracts.

(g) Determine any waivers required to implement joint Medicare and Medicaid contracts, including waivers needed to provide services to persons who would be financially eligible under the special income level described in s. 409.904(3), Florida Statutes.

(h) Develop recommendations for modification of the state's certificate-of-need methodology for nursing home beds, to ensure cost-neutrality of managed long-term care programs.

(i) Assess the feasibility of making the managed long-term-care demonstration projects available on a sliding-fee-scale basis in the commercial market to individuals who are not eligible for Medicaid.

(j) Assess the potential of using any savings generated through the provision of Medicaid and Medicare managed long-term care to offset the cost of additional long-term-care coverage to individuals whose incomes are too high for Medicaid but inadequate to support the cost of nursing home care.

(k) Assess the applicability of Medicaid nursing home preadmission screening practices in community-based long-term care-programs and whether an independent third-party entity should assess the level of functional disability of an individual receiving capitated long-term-care services.

(l) Work with the Department of Insurance to reduce paperwork and to eliminate duplicative and conflicting monitoring and reporting requirements for health maintenance organizations that provide long-term care.

(m) Develop recommendations for quality standards for providers of managed long-term care.

(n) Consider the recommendations contained in the Nursing Home Resident Profiles prepared by the agency's center for health statistics.

(o) Establish a state long-term-care working group to serve in a technical advisory capacity for the state's long-term-care planning efforts. Membership on the work group must include association representatives from home health agencies, adult congregate living facilities, and nursing homes.

(p) Consider methods to encourage competition between managed long-term-care providers, based on the price of and patient satisfaction with the services provided.

(3) The long-term-care demonstration projects shall include components intended to:

(a) Contain the rate of growth in the level of state funding required for the provision of long-term care.

(b) Increase the availability of and access to appropriate long-term care for persons who are elderly or disabled.

(c) Increase the quality of long-term-care services.

(d) Encourage self-determination by promoting informed decision-making about long-term care and by providing a variety of choices for quality long-term care.

(e) Ensure that moneys appropriated by the state for long-term care are distributed in the most appropriate manner among institutional, residential, and community-based services.

(f) Encourage and support family and informal caregivers, including volunteers, and encourage individuals to make arrangements to meet their own long-term-care needs.

(g) Offer opportunities for individuals to take responsibility for their own care.

(h) Position the state human services systems to take advantage of national health care and long-term-care reform initiatives.

(i) Ensure that providers of services under the state's Medicaid waiver, the community care for the elderly program, the community care for disabled adults program, the Alzheimer's disease initiatives, or the Older American's Act programs are offered the opportunity to subcontract with entities that contract with Medicaid to provide managed long-term care.

(j) Demonstrate the feasibility of contractual partnerships between the state's network of community providers of long-term care and risk-bearing entities in good standing with the agency or the Department of Insurance.

(4) The agency and the department shall report their findings and recommendations regarding the design of managed-long-term-care delivery systems to the Legislature by January 1, 1996. The agency and the department shall report to the Legislature regarding the implementation and initial operations of the demonstration projects by January 1, 1997.

Section 6. Section 154.304, Florida Statutes, is amended to read:

154.304 Definitions.—*As used in this part, the term* ~~For the purpose of this act~~:

(1) "Agency" means the Agency for Health Care Administration.

(2)~~(1)~~ "Board" means the Health Care Board as established in chapter 408.

(3)~~(2)~~ "Certification determination procedures" means the process used by the county of residence or the *agency* ~~department~~ to determine a person's county of residence.

(4)~~(3)~~ "Certified resident" means a United States citizen or lawfully admitted alien who has been certified as a resident of the county by a person designated by the county governing body to provide certification determination procedures for the county in which the patient resides; by the *agency* ~~department~~ if such county does not make a determination of residency within 60 days *after* ~~of~~ receiving a certified letter from the treating hospital; or by the *agency* ~~department~~ if the hospital appeals the decision of the county making such determination.

(5)~~(4)~~ "Charity care obligation" means the minimum amount of uncompensated charity care as reported to the Health Care ~~Cost Containment~~ Board, based on the hospital's most recent audited actual experience, which must be provided by a participating hospital or a regional referral hospital before the hospital is eligible to be reimbursed by a county under ~~the provisions of~~ this *part* ~~act~~. That amount shall be the ratio of uncompensated charity care days compared to total acute care inpatient days, which shall be equal to or greater than 2 percent.

~~(5) "Department" means the Department of Health and Rehabilitative Services.~~

(6) "Eligibility determination procedures" means the process used by a county or the *agency* ~~department~~ to evaluate a person's financial eligibility, eligibility for state-funded or federally funded programs, and the availability of insurance, in order to document a person as a qualified indigent for the purpose of this *part* ~~act~~.

(7) "Hospital~~,"~~ ~~for the purposes of this act,~~ means an establishment as defined in s. 395.002 and licensed by the *agency* ~~department~~ which qualifies as either a participating hospital or as a regional referral hospital pursuant to this section; except that, hospitals operated by the *agency may* ~~department shall~~ not be considered participating hospitals for purposes of this *part* ~~act~~.

(8) "Participating hospital" means a hospital *that* ~~which~~ is eligible to receive reimbursement under ~~the provisions of~~ this *part* ~~act~~ because it has been certified by the board as having met its charity care obligation and has either:

(a) A formal signed agreement with a county or counties to treat such county's indigent patients; or

(b) Demonstrated to the board that at least 2.5 percent of its uncompensated charity care, as reported to the board, is generated by out-of-county residents.

(9) "Qualified indigent person" or "qualified indigent patient" means a person who has been determined pursuant to s. 154.308 to have an average family income, for the 12 months preceding the determination, which is below 100 percent of the federal nonfarm poverty level; who is not eligible to participate in any other government program *that* ~~which~~ provides hospital care; who has no private insurance or has inadequate private insurance; and who does not reside in a public institution as defined under the medical assistance program for the needy under Title XIX of the Social Security Act, as amended.

(10) "Regional referral hospital" means any hospital *that* ~~which~~ is eligible to receive reimbursement under ~~the provision of~~ this *part* ~~act~~ because it has met its charity care obligation and it meets the definition of teaching hospital as defined in s. 408.07.

Section 7. Section 154.306, Florida Statutes, is amended to read:

154.306 Financial responsibility for certified residents who are qualified indigent patients treated at an out-of-county participating hospital or regional referral hospital.—Ultimate financial responsibility for treatment received at a participating hospital or a regional referral hospital by a qualified indigent patient who is a certified resident of a county in the State of Florida, but is not a resident of the county in which the participating hospital or regional referral hospital is located, *is* ~~shall be~~ the obligation of the county of which the qualified indigent patient is a resident. Each county *shall* ~~is directed to~~ reimburse participating hospitals or regional referral hospitals as provided for in this *part* ~~act~~, and shall provide or arrange for indigent eligibility determination procedures and resident certification determination procedures as provided for in rules developed to implement this *part* ~~act~~. The *agency* ~~department~~, or any county determining eligibility of a qualified indigent, shall provide to the county of residence, upon request, a copy of any documents, forms, or other information, as determined by rule, which may be used in making an eligibility determination.

(1) A county's financial obligation for each certified resident who qualifies as an indigent patient under this *part* ~~act~~, and who has received treatment at an out-of-county hospital, *does* ~~shall~~ not exceed 45 days per county fiscal year at a rate of payment equivalent to 100 percent of the per diem reimbursement rate currently in effect for the out-of-county hospital under the medical assistance program for the needy under Title XIX of the Social Security Act, as amended, except that those counties that are at their 10-mill cap on October 1, 1991, shall reimburse hospitals for such services at not less than 80 percent of the hospital Medicaid per diem. However, ~~nothing in~~ this section *does not* ~~shall~~ preclude a hospital *that* ~~which~~ has a formal signed agreement with a county to treat such county's indigents from negotiating a higher or lower per diem rate with the county. In addition, *a* ~~no~~ county *is not* ~~shall be~~ required by this *part* ~~act~~ to pay more than the equivalent of $4 per capita in the county's fiscal year. The *agency* ~~department~~ shall calculate and certify to each county by March 1 of each year, the maximum amount the county *is* ~~may be~~ required to pay under this *part* ~~act~~ by multiplying the most recent official state population estimate for the total population of the county by $4 per capita. Each county shall certify to the *agency* ~~department~~ within 60 days *after* ~~of~~ the end of the county's fiscal year, or upon reaching the $4 per capita threshold, should that occur before the end of the fiscal year, the amount of reimbursement it paid to all out-of-county hospitals under this *part* ~~act~~.

(2) *A* ~~No~~ county *is not* ~~shall be~~ required to pay for any elective or nonemergency admissions or services at an out-of-county hospital for a qualified indigent who is a certified resident of the county *if* ~~when~~ the county provides funding for such services and the services are available at a local hospital in the county where the indigent resides; or the out-of-county hospital has not obtained prior written authorization and approval for such hospital admission or service, provided that the resident county has established a procedure to authorize and approve such admissions.

(3) The county where the indigent resides *is* ~~shall~~, in all instances, ~~be~~ liable for the cost of treatment provided to a qualified indigent patient at an out-of-county hospital for any emergency medical condition *that* ~~which~~ will deteriorate from failure to provide such treatment and *if* ~~when~~ such condition is determined and documented by the attending physician to be of an emergency nature; provided that the patient has been certified to be a resident of such county pursuant to s. 154.309.

(4) *A* ~~No~~ county *is not* ~~shall be~~ liable for payment for treatment of a qualified indigent who is a certified resident and has received services at an out-of-county participating hospital or regional referral hospital, until such time as that hospital has documented to the board and the board has determined that it has met its charity care obligation based on the most recent audited actual experience.

Section 8. Section 154.308, Florida Statutes, is amended to read:

154.308 Determination of patient's eligibility; spend-down program.—

(1) The *agency* ~~department~~, pursuant to s. 154.3105, shall adopt rules *that* ~~which~~ provide statewide eligibility determination procedures, forms, and criteria *to* ~~which shall~~ be used by all counties for determining whether a person financially qualifies as indigent for the purposes of this *part* ~~act~~.

(a) The criteria used to determine eligibility *must* ~~shall~~ be uniform statewide and *must* ~~shall~~ include, at a minimum, which assets, if any, may be included in the determination, which verification of income *is* ~~shall be~~ required, which categories of persons *are* ~~shall be~~ eligible, and any other criteria *that is* ~~which may be~~ determined *to be* ~~as~~ necessary.

(b) The methodology *for determining* ~~by which to determine~~ financial eligibility *must* ~~shall~~ also be uniform statewide *so* ~~such~~ that any county or the state *may* ~~could~~ determine whether a person *is* ~~would be~~ a qualified indigent under this *part* ~~act~~.

(2) Determination of financial eligibility as a qualified indigent may occur either prior to a person's admission to a participating hospital or a regional referral hospital or subsequent to such admission.

(3) Determination of whether a hospital patient not already determined eligible meets or does not meet eligibility standards to financially qualify him as indigent for the purpose of this *part must* ~~act shall~~ be made within 60 days following notification by the hospital requesting a determination of indigency, by certified letter, to the county known or believed to be the county of residence or to the *agency* ~~department~~. If, for any reason, the county or *agency* ~~department~~ is unable to determine a patient's eligibility within the allotted timeframe, the hospital shall be notified in writing of the reason or reasons.

(4) A patient determined eligible as a qualified indigent for the purpose of this *part* ~~act~~ subsequent to his or her admission to a participating hospital or a regional referral hospital shall be considered to have been qualified upon admission. Such determination shall be made by a person designated by the governing board of the county to make such a determination or by the *agency* ~~department~~.

(5) Notwithstanding any other provision within this *part* ~~act~~, any county may establish thresholds of financial eligibility to qualify indigents under this *part* ~~act~~ which are less restrictive than 100 percent of the federal poverty line. However, *a* ~~no~~ county may *not* establish eligibility thresholds *that* ~~which~~ are more restrictive than 100 percent of the federal poverty line.

(6) Notwithstanding any other provision of this *part* ~~act~~, there is ~~hereby~~ established a spend-down program for persons who would otherwise qualify as qualified indigent persons, but whose average family income, for the 12 months preceding the determination, is between 100 percent and 150 percent of the federal poverty level. The *agency* ~~department~~ shall adopt, by rule, procedures for the spend-down program. The rule shall require that in order to qualify for the spend-down program, a person must have incurred bills for hospital care which would otherwise have qualified for payment under this part. This subsection does not apply to persons who are residents of counties that are at their 10-mill cap on October 1, 1991.

Section 9. Section 154.309, Florida Statutes, is amended to read:

154.309 Certification of county of residence.—

(1) The *agency* ~~department~~, pursuant to s. 154.3105, shall adopt rules for certification determination procedures which provide criteria to be used for determining a qualified indigent's county of residence. Such criteria *must* ~~shall~~ include, at a minimum, how and to what extent residency shall be verified and how a hospital shall be notified of a patient's certification or the inability to certify a patient.

(2) In all instances, the county known or thought to be the county of residence shall be given first opportunity to certify a resident. If the county known or thought to be the county of residence fails to, or is unable to, make such determination within 60 days following written notification by a hospital, the *agency* ~~department~~ shall determine residency utilizing the same criteria required by rule as the county.~~, and~~ The *agency's* ~~department's~~ determination of residency *is* ~~shall be~~ binding on the county of residence. The county determined as the residence of any qualified indigent under this *part* ~~act~~ shall be liable to reimburse the treating hospital pursuant to s. 154.306. If, for any reason, a county or the *agency* ~~department~~ is unable to determine an indigent's residency, the hospital shall be notified in writing of such reason or reasons.

Section 10. Section 154.31, Florida Statutes, is amended to read:

154.31 Obligation of participating hospital or regional referral hospital.—As a condition of accepting the procedures of this *part* ~~act~~, each participating hospital or regional referral hospital in Florida *is* ~~shall be~~ obligated to admit for emergency treatment all Florida residents, without regard to county of residence, who meet the eligibility standards established pursuant to s. 154.308 and who meet the medical standards for admission to such institutions. If the *agency* ~~department~~ determines that a participating hospital or a regional referral hospital has failed to meet the requirements of this section, the *agency* ~~department~~ may impose an administrative fine, not to exceed $5,000 per incident, and suspend the hospital from eligibility for reimbursement under ~~the provisions of~~ this *part* ~~act~~.

Section 11. Section 154.3105, Florida Statutes, is amended to read:

154.3105 Rules.—Rules governing the Health Care Responsibility Act of 1988 shall be developed by the *agency* ~~department~~ based on recommendations of a work group consisting of equal representation by the *agency* ~~department~~, the hospital industry, and the counties. County representatives to this work group shall be appointed by the Florida Association of Counties. Hospital representatives to this work group shall be appointed by the associations representing those hospitals *that* ~~which~~ best represent the positions of the hospitals most likely to be eligible for reimbursement. Rules governing the various aspects of this *part* ~~act~~ shall be adopted by the *agency* ~~department~~. Such rules *must include* ~~shall address~~, at a minimum:

(1) Eligibility determination procedures and criteria.

(2) Certification determination procedures and methods of notification to hospitals.

Section 12. Section 154.312, Florida Statutes, is amended to read:

154.312 Procedure for settlement of disputes.—All disputes among counties, the board, the *agency* ~~department~~, a participating hospital, or a regional referral hospital shall be resolved by order as provided in chapter 120. Hearings held under this *part* ~~provision~~ shall be conducted in the same manner as provided in s. 120.57, except that the hearing officer's order *is* ~~shall be~~ final agency action. Cases filed under chapter 120 may combine all disputes between parties. Notwithstanding any other provisions of this part, *if* ~~when~~ a county alleges that a residency determination or eligibility determination made by the *agency* ~~department~~ is incorrect, the burden of proof *is* ~~shall be~~ on the county to demonstrate that such determination is, in light of the total record, not supported by the evidence.

Section 13. Section 409.901, Florida Statutes, is amended to read:

409.901 Definitions.—As used in ss. 409.901-409.920, except as otherwise specifically provided, the term:

(1) "Affiliate" or "affiliated person" means any person having an overt, covert or conspiratorial relationship with another such that either of them may directly or indirectly control the other or such that they are under common control or ownership.

(2) "Agency" means the Agency for Health Care Administration. The agency is the Medicaid agency for the state, as provided under federal law.

(3)~~(1)~~ "Applicant" means an individual whose written application for medical assistance provided by Medicaid under ss. 409.903-409.906 has been submitted to the *agency* ~~department~~, but has not received final action. This term includes an individual, who need not be alive at the time of application, whose application is submitted through a representative or a person acting for the individual.

(4)~~(2)~~ "Benefit" means any benefit, assistance, aid, obligation, promise, debt, liability, or the like, related to any covered injury, illness, or necessary medical care, goods, or services.

(5)~~(3)~~ "Claim" means any communication, whether ~~oral,~~ written~~,~~ or electronic (electronic impulse or magnetic), which is used by any person to apply for payment from the Medicaid program or its fiscal agent for each item or service purported by any person to have been provided by a person to any Medicaid recipient.

(6)~~(4)~~ "Collateral" means:

(a) Any and all causes of action, suits, claims, counterclaims, and demands *that* ~~which~~ accrue to the recipient or to the recipient's legal representative, related to any covered injury, illness, or necessary medical care, goods, or services *that* ~~which~~ necessitated that Medicaid provide medical assistance.

(b) All judgments, settlements, and settlement agreements rendered or entered into and related to such causes of action, suits, claims, counterclaims, demands, or judgments.

(c) Proceeds, as defined in this section.

(7)~~(5)~~ "Covered injury or illness" means any sickness, injury, disease, disability, deformity, abnormality disease, necessary medical care, pregnancy, or death for which a third party is, may be, could be, should be, or has been liable, and for which Medicaid is, or may be, obligated to provide, or has provided, medical assistance.

(8) "Emergency medical condition" means:

(a) A medical condition manifesting itself by acute symptoms of sufficient severity, which may include severe pain or other acute symptoms, such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

1. Serious jeopardy to the health of a patient, including a pregnant woman or fetus.

2. Serious impairment to bodily functions.

3. Serious dysfunction of any bodily organ or part.

(b) With respect to a pregnant woman:

1. That there is inadequate time to effect safe transfer to another hospital prior to delivery;

2. That a transfer may pose a threat to the health and safety of the patient or fetus; or

3. That there is evidence of the onset and persistence of uterine contractions or rupture of the membranes.

(9) "Emergency services and care" means medical screening, examination, and evaluation by a physician, or, to the extent permitted by applicable laws, by other appropriate personnel under the supervision of a physician, to determine whether an emergency medical condition exists and, if it does, the care, treatment, or surgery for a covered service by a physician which is necessary to relieve or eliminate the emergency medical condition, within the service capability of a hospital.

(10) "Federally qualified community health center" means a primary care center as defined in s. 1905(1)(2)(B) of the Social Security Act.

~~(6) "Department" means the Department of Health and Rehabilitative Services. The department is the Medicaid agency for the state, as provided under federal law.~~

(11)~~(7)~~ "Legal representative" means a guardian, conservator, survivor, or personal representative of a recipient or applicant, or of the property or estate of a recipient or applicant.

(12)~~(8)~~ "Medicaid" means the medical assistance program authorized by Title XIX of the Social Security Act, 42 U.S.C. s. 1396 et seq., and regulations thereunder, as administered in this state by the *agency* ~~department~~.

(13)~~(9)~~ "Medicaid agency" means the single state agency that administers or supervises the administration of the state Medicaid plan under federal law.

(14)~~(10)~~ "Medicaid program" means the program authorized under Title XIX of the federal Social Security Act *which* ~~that~~ provides for payments for medical items or services, or both, on behalf of any person who is determined by the Department *of Health and Rehabilitative Services* to be eligible on the date of service for Medicaid assistance.

(15)~~(11)~~ "Medicaid provider" or "provider" means a person or entity that has a Medicaid provider agreement in effect with the *agency* ~~department~~ and is in good standing with the *agency* ~~department~~.

(16)~~(12)~~ "Medicaid provider agreement" or "provider agreement" means a contract between the *agency* ~~department~~ and a provider for the provision of services or goods, or both, to Medicaid recipients pursuant to Medicaid.

(17)~~(13)~~ "Medicaid recipient" or "recipient" means an individual whom the Department *of Health and Rehabilitative Services* determines is eligible, pursuant to federal and state law, to receive medical assistance and related services for which the *agency* ~~department~~ may make payments under the Medicaid program. For the purposes of determining third-party liability, the term includes an individual formerly determined to be eligible for Medicaid, an individual who has received medical assistance under the Medicaid program, or an individual on whose behalf Medicaid has become obligated.

(18)~~(14)~~ "Medicaid-related records" means records that relate to the provider's business or profession and to a Medicaid recipient. Medicaid-related records include records related to non-Medicaid customers, clients, or patients but only to the extent that the documentation is shown by the *agency* ~~department~~ to be necessary to determine a provider's entitlement to payments under the Medicaid program.

(19)~~(15)~~ "Medical assistance" means any provision of, payment for, or liability for medical services by Medicaid to, or on behalf of, any recipient.

(20)~~(16)~~ "Medical services" or "medical care" means medical or medically related institutional or noninstitutional care, goods, or services covered by the Medicaid program. The term includes, without limitation, physician services, inpatient hospital services, outpatient hospital services, independent laboratory services, X-ray services, and prescribed drug services, and such other services as are covered by the Medicaid program.

(21)~~(17)~~ "Payment," as it relates to third-party benefits, means performance of a duty, promise, or obligation, or discharge of a debt or liability, by the delivery, provision, or transfer of third-party benefits for medical services. To "pay" means to do any of the acts set forth in this subsection.

(22)~~(18)~~ "Proceeds" means whatever is received upon the sale, exchange, collection, or other disposition of the collateral or proceeds thereon and includes insurance payable by reason of loss or damage to the collateral or proceeds. Money, checks, deposit accounts, and the like are "cash proceeds." All other proceeds are "noncash proceeds."

(23)~~(19)~~ "Third party" means an individual, entity, or program, excluding Medicaid, that is, may be, could be, should be, or has been liable for all or part of the cost of medical services related to any medical assistance covered by Medicaid.

(24)~~(20)~~ "Third-party benefit" means any benefit that is or may be available at any time through contract, court award, judgment, settlement, agreement, or any arrangement between a third party and any person or entity, including, without limitation, a Medicaid recipient, a provider, another third party, an insurer, or the *agency* ~~department~~, for any Medicaid-covered injury, illness, goods, or services, including costs of medical services related thereto, for personal injury or for death of the recipient, but specifically excluding policies of life insurance on the recipient, unless available under terms of the policy to pay medical expenses prior to death. The term includes, without limitation, collateral, as defined in this section, health insurance, any benefit under a health maintenance organization, a preferred provider arrangement, a prepaid health clinic, liability insurance, uninsured motorist insurance or personal injury protection coverage, medical benefits under workers' compensation, and any obligation under law or equity to provide medical support.

Section 14. Section 409.902, Florida Statutes, is amended to read:

409.902 Designated single state agency; payment requirements; program title.—The *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ is designated as the single state agency authorized to make payments for medical assistance and related services under Title XIX of the Social Security Act. These payments shall be made only for services included in the program, shall be made only on behalf of eligible individuals, and shall be made only to qualified providers in accordance with federal requirements for Title XIX of the Social Security Act and the provisions of state law. This program of medical assistance is designated the "Medicaid program."

Section 15. Section 409.903, Florida Statutes, is amended to read:

409.903 Mandatory payments for eligible persons.—The *agency* ~~department~~ shall make payments for medical assistance and related services on behalf of the following persons *whom* ~~who~~ the Department *of Health and Rehabilitative Services* determines to be eligible, subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(1) Persons who receive payments from or are determined eligible for the federal and state program known as Aid to Families with Dependent Children (AFDC), and certain persons who were eligible for that program but who became ineligible or who would be eligible but do not meet certain technical requirements. This group includes, but is not limited to:

(a) Low-income, single-parent families and their children.

(b) Low-income, two-parent families in which at least one parent is disabled or otherwise incapacitated.

(c) Certain unemployed two-parent families and their children.

(2) A person who receives payments from, who is determined eligible for, or who was eligible for but lost cash benefits from the federal program known as the Supplemental Security Income program (SSI). This category includes a low-income person age 65 or over and a low-income person under age 65 considered to be permanently and totally disabled.

(3) A child under age 21 living in a low-income, two-parent family, and a child under age 7 living with a nonrelative, if the income and assets of the family or child, as applicable, do not exceed the cash-assistance limits under the Aid to Families with Dependent Children program.

(4) A child who is eligible under Title IV-E of the Social Security Act for subsidized board payments, foster care, or adoption subsidies, and a child for whom the state has assumed temporary or permanent responsibility and who does not qualify for Title IV-E assistance but is in foster care, shelter or emergency shelter care, or subsidized adoption.

(5) A pregnant woman for the duration of her pregnancy and for the post partum period as defined in federal law and rule, or a child under age 1, if either is living in a family ~~that has an income which is at or below 150 percent of the most current federal poverty level, or, effective January 1, 1992,~~ that has an income which is at or below 185 percent of the most current federal poverty level. Such a person is not subject to an assets test. Further, a pregnant woman who applies for eligibility for the Medicaid program through a qualified Medicaid provider must be offered the opportunity, subject to federal rules, to be made presumptively eligible for the Medicaid program.

(6) A child born after September 30, 1983, *who lives* ~~living~~ in a family that has an income *that* ~~which~~ is at or below 100 percent of the current federal poverty level, who has attained the age of 6, but has not attained the age of 19. In determining the eligibility of such a child, an assets test is not required.

(7) A child *who lives* ~~living~~ in a family that has an income which is at or below 133 percent of the current federal poverty level, who has attained the age of 1, but has not attained the age of 6. In determining the eligibility of such a child, an assets test is not required.

(8) A person who is age 65 or over or is determined by the Department *of Health and Rehabilitative Services* to be disabled, whose income is at or below 100 percent of the most current federal poverty level and whose assets do not exceed limitations established by the *agency* ~~department~~. However, the *agency* ~~department~~ may only pay for premiums, coinsurance, and deductibles, as required by federal law, unless additional coverage is provided for any or all members of this group by s. 409.904(1).

(9) A person who is age 65 or older, whose income is at or below 120 percent of the most current federal poverty level, whose assets do not exceed twice the SSI limitations established by the agency, and who is enrolled or conditionally enrolled in Medicare Part A. However, the agency may pay only for Medicare Part B premiums, as required by federal law. These individuals are ineligible for any other Medicaid benefits under this coverage group. However, individuals who are eligible for this coverage group may also receive Medicaid benefits under another Medicaid coverage group such as that provided under s. 409.904(2) or (3).

Section 16. Section 409.904, Florida Statutes, is amended to read:

409.904 Optional payments for eligible persons.—The *agency* ~~department~~ may make payments for medical assistance and related services on behalf of the following persons *whom* ~~who~~ the Department *of Health and Rehabilitative Services* determines to be eligible subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(1) A person who is age 65 or older or is determined by the *agency* ~~department~~ to be disabled, whose income is at or below *90* ~~100~~ percent of federal poverty level, and whose assets do not exceed limitations established by the *agency* ~~department~~.

(2) A family, a pregnant woman, a child under age 18, a person age 65 or over, or a blind or disabled person who would be eligible under any group listed in s. 409.903(1), (2), or (3), except that the income or assets of such family or person exceed limitations established by the *agency* ~~department~~. For a family or person in this group, medical expenses are deductible from income in accordance with federal requirements in order to make a determination of eligibility. A family or person in this group, which group is known as the "medically needy," is eligible to receive the same services as other Medicaid recipients, with the exception of services in skilled nursing facilities and intermediate care facilities for the mentally retarded.

(3) A person who is in need of the services of a licensed nursing facility, a licensed intermediate care facility for the mentally retarded, or a state mental hospital, whose income does not exceed 300 percent of the SSI income standard, and who meets the assets standards established under federal and state law.

(4) A low-income person who meets all other requirements for Medicaid eligibility except citizenship and who is in need of emergency medical services. The eligibility of such a recipient is limited to the period of the emergency, in accordance with federal regulations.

Section 17. Section 409.905, Florida Statutes, 1994 Supplement, is amended to read:

409.905 Mandatory Medicaid services.—The *agency* ~~department~~ may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined by the Department *of Health and Rehabilitative Services* to be eligible on the dates on which the services were provided. Any service under this section may be provided only when medically necessary, shall be provided in accordance with state and federal law, and is subject to the availability of moneys and any limitation established by the General Appropriations Act or chapter 216.

(1) ADVANCED REGISTERED NURSE PRACTITIONER SERVICES.—The *agency* ~~department~~ shall pay for services provided to a recipient by a licensed advanced registered nurse practitioner who has a valid collaboration agreement with a licensed physician on file with the *agency* ~~Department of Business and Professional Regulation~~ or who provides anesthesia services in accordance with established protocol required by state law and approved by the medical staff of the facility in which the anesthetic service is performed. Reimbursement for such services must be provided in an amount that equals not less than 80 percent of the reimbursement to a physician who provides the same services.

(2) EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT SERVICES.—The *agency* ~~department~~ shall pay for early and periodic screening and diagnosis of a recipient under age 21 to ascertain physical and mental problems and conditions and provide treatment to correct or ameliorate these problems and conditions. These services include all services determined by the *agency* ~~department~~ to be medically

necessary for the treatment, correction, or amelioration of these problems, including personal care, private duty nursing, durable medical equipment, physical therapy, occupational therapy, speech therapy, respiratory therapy, and immunizations.

(3) FAMILY PLANNING SERVICES.—The *agency* ~~department~~ shall pay for services necessary to enable a recipient voluntarily to plan family size or to space children. These services include information, education, drugs and supplies, and necessary medical care and followup. Each recipient participating in the family planning portion of the Medicaid program must be provided freedom to choose any alternative method of family planning, as required by federal law.

(4) HOME HEALTH CARE SERVICES.—The *agency* ~~department~~ shall pay for nursing and home health aide services, supplies, appliances, and durable medical equipment, necessary to assist a recipient living at home. An entity that provides services pursuant to this subsection shall be licensed under part IV of chapter 400 or part II of chapter 499, if appropriate. These services, equipment, and supplies may be limited as provided in the general appropriations act and do not include services, equipment, or supplies provided to a person residing in a hospital or nursing facility.

(5) HOSPITAL INPATIENT SERVICES.—The *agency* ~~department~~ shall pay for all services provided for the medical care and treatment of a recipient who is admitted as an inpatient by a licensed physician or dentist to a hospital licensed under part I of chapter 395. *Recipients 21 years of age or older are limited to 45 days of inpatient hospital services per state fiscal year. Recipients under 21 years of age have no limitation on inpatient services except medical necessity.* ~~However, payment for inpatient hospital services in excess of 45 days for a Medicaid recipient 21 years of age or older is dependent upon the availability of sufficient county contributions.~~ A ~~licensed~~ hospital *licensed as a Class III Special Psychiatric Hospital* maintained primarily for the care and treatment of patients having mental disorders or mental diseases is not eligible to participate in ~~the hospital inpatient portion of~~ the Medicaid program except as provided in federal law *and state law*. However, the *agency* ~~department~~ shall apply for a waiver~~, within 9 months after June 5, 1991,~~ designed to provide hospitalization services for mental health reasons to children and adults in the most cost-effective and lowest cost setting possible. Such waiver shall include a request for the opportunity to pay for care in hospitals known under federal law as "institutions for mental disease" or "IMD's." The waiver proposal shall propose no additional aggregate cost to the state or Federal Government, and shall be conducted in District 6 of the *agency* ~~Department of Health and Rehabilitative Services~~. The waiver proposal may incorporate competitive bidding for hospital services, comprehensive brokering, prepaid capitated arrangements, or other mechanisms deemed by the *agency* ~~department~~ to show promise in reducing the cost of acute care and increasing the effectiveness of preventive care. When developing the waiver proposal, the *agency* ~~department~~ shall take into account price, quality, accessibility, linkages of the hospital to community services and family support programs, plans of the hospital to ensure the earliest discharge possible, and the comprehensiveness of the mental health and other health care services offered by participating providers. The *agency shall* ~~department is directed to~~ monitor and evaluate the implementation of this waiver program, if it is granted, and report to the chairs of the appropriations committees of the Senate and the House of Representatives ~~by February 1, 1992~~.

(6) HOSPITAL OUTPATIENT SERVICES.—The *agency* ~~department~~ shall pay for preventive, diagnostic, therapeutic, or palliative care and other services provided to a recipient in the outpatient portion of a hospital licensed under part I of chapter 395, and provided under the direction of a licensed physician or licensed dentist, except that payment for such care and services is limited to $1,000 per state fiscal year per recipient, unless an exception has been made by the *agency* ~~department~~, and with the exception of a Medicaid recipient under age 21, in which case the only limitation is medical necessity.

(7) INDEPENDENT LABORATORY SERVICES.—The *agency* ~~department~~ shall pay for medically necessary diagnostic laboratory procedures ordered by a licensed physician or other licensed practitioner of the healing arts which are provided for a recipient in a laboratory that meets the requirements for Medicare participation and is licensed under chapter 483, if required.

(8) NURSING FACILITY SERVICES.—The *agency* ~~department~~ shall pay for 24-hour-a-day nursing and rehabilitative services for a recipient in a nursing facility licensed under part II of chapter 400 or in a rural hospital, as defined in s. 395.602, or in a Medicare certified skilled nursing facility operated by a hospital, as defined by s. 395.002(10), that is licensed under part I of chapter 395, and in accordance with provisions set forth in s. 409.908(2)(a), which services are ordered by and provided under the direction of a licensed physician. However, if a nursing facility has been destroyed or otherwise made uninhabitable by natural disaster or other emergency and another nursing facility is not available, the *agency* ~~department~~ must pay for similar services temporarily in a hospital licensed under part I of chapter 395 *if* ~~provided~~ federal funding is approved and available.

(9) PHYSICIAN SERVICES.—The *agency* ~~department~~ shall pay for services and procedures rendered to a recipient by, or under the personal supervision of, a person licensed under state law to practice medicine or osteopathy. These services may be furnished in the physician's office, the Medicaid recipient's home, a hospital, a nursing facility, or elsewhere, but shall be medically necessary for the treatment of an injury, illness, or disease within the scope of the practice of medicine or osteopathy as defined by state law. The *agency may* ~~department shall~~ not pay for services that are clinically unproven, experimental, or for purely cosmetic purposes.

(10) PORTABLE X-RAY SERVICES.—The *agency* ~~department~~ shall pay for professional and technical portable radiological services ordered by a licensed physician or other licensed practitioner of the healing arts which are provided by a licensed professional in a setting other than a hospital, clinic, or office of a physician or practitioner of the healing arts, on behalf of a recipient.

(11) RURAL HEALTH CLINIC SERVICES.—The *agency* ~~department~~ shall pay for outpatient primary health care services for a recipient provided by a clinic certified by and participating in the Medicare program which is located in a federally designated, rural, medically underserved area and has on its staff one or more licensed primary care nurse practitioners or physician assistants, and a licensed staff supervising physician or a consulting supervising physician.

(12) TRANSPORTATION SERVICES.—The *agency* ~~department~~ shall ensure that transportation services are available for a Medicaid recipient in need of transport to a qualified Medicaid provider for necessary and Medicaid-compensable services. The *agency* ~~department~~ may pay for transportation and other related travel expenses as necessary if these services are not otherwise available.

Section 18. Section 409.907, Florida Statutes, 1994 Supplement, is amended to read:

409.907 Medicaid provider agreements.—The *agency* ~~department~~ may make payments for medical assistance and related services rendered to Medicaid recipients only to a person or entity who has a provider agreement in effect with the *agency* ~~department~~, who is performing services or supplying goods in accordance with federal, state, and local law, and who agrees that no person shall, on the grounds of handicap, race, color, or national origin, or for any other reason, be subjected to discrimination under any program or activity for which the provider receives payment from the *agency* ~~department~~.

(1) Each provider agreement shall require the provider to comply fully with all state and federal laws pertaining to the Medicaid program, as well as all federal, state, and local laws pertaining to licensure, if required, and the practice of any of the healing arts, and shall require the provider to provide services or goods of not less than the scope and quality it provides to the general public.

(2) Each provider agreement shall be a voluntary contract between the *agency* ~~department~~ and the provider, in which the provider agrees to comply with all laws and rules pertaining to the Medicaid program when furnishing a service or goods to a Medicaid recipient and the *agency* ~~department~~ agrees to pay a sum, determined by fee schedule, payment methodology, or other manner, for the service or goods provided to the Medicaid recipient. Each provider agreement shall be effective for a stipulated period of time, shall be terminable by either party after reasonable notice, and shall be renewable by mutual agreement. *By signing a provider agreement and applying for payment under the Medicaid program, the provider agrees that participation in the program is not a property right. This section does not create a property right.*

(3) The provider agreement developed by the *agency* ~~department~~, in addition to the requirements specified in subsections (1) and (2), shall require the provider to:

(a) Have in his possession at the time of signing the provider agreement, and maintain in good standing throughout the period of the agreement's effectiveness, a valid professional or facility license pertinent to the services or goods being provided, if required by the state or locality in which the provider is located, and the Federal Government, if applicable.

(b) Maintain in a systematic and orderly manner all medical and Medicaid-related records *that* ~~as~~ the *agency requires* ~~department may require~~ and ~~as it~~ determines *are* necessary for the services or goods being provided.

(c) Retain all medical and Medicaid-related records for a period of 5 years to satisfy all necessary inquiries by the *agency* ~~department~~.

(d) Safeguard the use and disclosure of information pertaining to current or former Medicaid recipients and comply with all state and federal laws pertaining to confidentiality of patient information.

(e) Permit the *agency* ~~department~~, the Attorney General, the Federal Government, and the authorized agents of each of these entities access to all Medicaid-related information, which may be in the form of records, logs, documents, or computer files, and other information pertaining to services or goods billed to the Medicaid program, including access to all patient records and other provider information if the provider cannot easily separate records for Medicaid patients from other records.

(f) Bill other insurers and third parties, including the Medicare program, before billing the Medicaid program, if the recipient is eligible for payment for health care or related services from another insurer or person, and comply with all other state and federal requirements in this regard.

(g) Promptly report any moneys received in error or in excess of the amount to which the provider is entitled from the Medicaid program, and promptly refund such moneys to the *agency* ~~department~~.

(h) Be liable for and indemnify, defend, and hold the *agency* ~~department~~ harmless from all claims, suits, judgments, or damages, including court costs and attorney's fees, arising out of the negligence or omissions of the provider in the course of providing services to a recipient or a person believed to be a recipient.

(i) At the option of the *agency* ~~department~~, provide proof of liability insurance and maintain such insurance in effect for any period during which services or goods are furnished to Medicaid recipients.

(j) Accept Medicaid payment as payment in full, and prohibit the provider from billing or collecting from the recipient or the recipient's responsible party any additional amount except, and only to the extent the *agency* ~~department~~ permits or requires, copayments, coinsurance, or deductibles to be paid by the recipient for the services or goods provided. The Medicaid payment-in-full policy does not apply to services or goods provided to a recipient if the services or goods are not covered by the Medicaid program.

(4) A provider agreement shall provide that, if the provider sells or transfers a business interest or practice that substantially constitutes the entity named as the provider in the provider agreement, or sells or transfers a facility that is of substantial importance to the entity named as the provider in the provider agreement, the provider is required to maintain and make available to the *agency* ~~department~~ Medicaid-related records that relate to the sale or transfer of the business interest, practice, or facility in the same manner as though the sale or transaction had not taken place, unless the provider enters into an agreement with the purchaser of the business interest, practice, or facility to fulfill this requirement.

(5) The *agency* ~~department~~:

(a) Is required to make timely payment at the established rate for services or goods furnished to a recipient by the provider upon receipt of a properly completed claim form. The claim form shall require certification that the services or goods have been completely furnished to the recipient and that, with the exception of those services or goods specified by the *agency* ~~department~~, the amount billed does not exceed the provider's usual and customary charge for the same services or goods.

(b) Is prohibited from demanding repayment from the provider in any instance in which the Medicaid overpayment is attributable to *agency* ~~departmental~~ error in the determination of eligibility of a recipient.

(c) May review and approve each application for participation in the Medicaid program prior to the enrollment of the applicant. The criteria for such review and approval must be adopted by rule, and such rule must provide for approval and review based on the same criteria for all applicants in each appropriate category code. The agency may, as part of its review criteria, require an onsite review of a proposed provider's service location by agency staff or other personnel designated by the agency to assist in this function.

(d)~~(c)~~ May adopt, and include in the provider agreement, such other requirements and stipulations on either party as the *agency* ~~department~~ finds necessary to properly and efficiently administer the Medicaid program.

(6) A Medicaid provider agreement may be revoked, at the option of the *agency* ~~department~~, as the result of a change of ownership of any facility, association, partnership, or other entity named as the provider in the provider agreement. A provider shall give the *agency* ~~department~~ 60 days' notice before making any change in ownership of the entity named in the provider agreement as the provider.

(7) The *agency* ~~department~~ may require, as a condition of participating in the Medicaid program and before entering into the provider agreement, that the provider submit information concerning the professional, business, and personal background of the provider. If the provider is a corporation, partnership, association, or other entity, the *agency* ~~department~~ may require the provider to submit information concerning the background of that entity and of any principal of the entity, including any partner or shareholder having an ownership interest in the entity equal to 5 percent or greater.

(8) Before signing a provider agreement, the *agency* ~~department~~ shall require the provider to submit:

(a) Proof of holding a valid license or operating certificate, as applicable, if required by the state or local jurisdiction in which the provider is located or if required by the Federal Government.

(b) Information concerning any prior violation, fine, suspension, termination, or other administrative action taken under the Medicaid laws, rules, or regulations of this state or of any other state or the Federal Government; any prior violation of the laws, rules, or regulations relating to the Medicare program; any prior violation of the rules or regulations of any other public or private insurer; and any prior violation of the laws, rules, or regulations of any regulatory body of this or any other state. The information required is that which pertains to the entity entering into the provider agreement with the *agency* ~~department~~; to any principal, partner, or shareholder having an ownership interest in the entity of 5 percent or greater; and to any treating provider who participates or intends to participate in Medicaid through the entity acting as a group provider.

(c) Notice of and copies of court documents not sealed by the court of jurisdiction, related to any criminal charge brought in any court in the United States against the provider or the provider entity, or any principal, partner, or major shareholder thereof.

(d) Full and accurate disclosure of any financial or ownership interest that the provider, or any principal, partner, or major shareholder thereof, may hold in any other Medicaid provider or health care related entity or any other entity that is licensed by the state to provide health or residential care and treatment to persons.

(e) If a group provider, identification of all members of the group and attestation that all members of the group are enrolled in or have applied to enroll in the Medicaid program.

(9) All statements and information furnished by the prospective provider for background information before signing the provider agreement shall be true and complete. The filing of materially incomplete or false information is sufficient cause for immediate termination of the provider from the Medicaid program.

(10) Before signing a provider agreement and at the discretion of the *agency* ~~department~~, other provisions of this section notwithstanding, an entity may become eligible to receive payment from the Medicaid program at the time it first furnishes services or goods, if:

(a) The services or goods provided are otherwise compensable;

(b) The entity meets all other requirements of a Medicaid provider at the time the services or goods were provided; and

(c) The entity agrees to abide by the provisions of the provider agreement effective from the date the services or goods were provided.

(11) A provider may not reenroll in the Medicaid program once suspended or terminated if any fine or overpayment properly assessed has not been repaid, unless the *agency* ~~department~~ has issued a specific letter of forgiveness or has approved a repayment schedule to which the provider agrees to adhere.

(12) A provider who does not adhere to an agreed-upon repayment schedule, whether previously suspended or terminated, may be terminated by the *agency* ~~department~~ for nonpayment or partial payment.

(13) The agency shall not enroll a Medicaid provider if any officer, director, agent, managing employee, or owner of stock or beneficial interest in excess of 5 percent common or preferred stock, the entity itself, or any affiliated person:

(a) Has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to:

1. Fraud;

2. Violation of federal or state antitrust statutes, including those proscribing price fixing between competitors and the allocation of customers among competitors;

3. Any criminal offense involving embezzlement, theft, forgery, income tax-evasion, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, or obstruction of justice;

4. Any criminal offense involving the delivery of any item or service under Medicaid or Medicare or any public or private health insurance program; or

5. Any criminal offense involving neglect or abuse of a patient in connection with the delivery of a health care item or service.

(b) Has been excluded from participation by Medicaid or any other federal or state program involving the provision of health care for reasons bearing on the individual or entity's professional competence, professional performance, or financial integrity.

(c) Has submitted an application to the Medicaid program which conceals an ownership or control interest of any person who would otherwise be ineligible to participate in the Medicaid program.

(d) Has submitted a provider-enrollment application to the Medicaid program containing a false representation or any omission of material fact.

Section 19. Paragraph (a) of subsection (2) and paragraph (d) of subsection (12) of section 409.908, Florida Statutes, 1994 Supplement, are amended to read:

409.908 Reimbursement of Medicaid providers.—The agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(2)(a) Reimbursement to nursing homes licensed under part II of chapter 400 and intermediate care facilities for the mentally retarded licensed under chapter 393 must be made prospectively. Reimbursement to hospitals licensed under part I of chapter 395 for the provision of swing-bed nursing home services must be made on the basis of the average statewide nursing home payment. Reimbursement to a hospital licensed under part I of chapter 395 for the provision of skilled nursing services must be made on the basis of the average nursing home payment for those services in the county in which the hospital is located. When a hospital is located in a county that does not have any community nursing homes, reimbursement must be determined by averaging the nursing home payments, in counties that surround the county in which the hospital is located. Reimbursement to hospitals, including Medicaid payment of Medicare copayments, for skilled nursing services shall be limited to 30 days, unless a prior authorization has been obtained from the *agency* ~~department~~. Medicaid reimbursement may be extended by the *agency* ~~department~~ beyond 30 days, and approval must be based upon verification by the patient's physician that the patient requires short-term rehabilitative and recuperative services only, in which case an extension of no more than 15 days may be approved. Reimbursement to a hospital licensed under part I of chapter 395 for the temporary provision of skilled nursing services to nursing home residents who have been displaced as the result of a natural disaster or other emergency may not exceed the average county nursing home payment for those services in the county in which the hospital is located and is limited to the period of time which the agency considers necessary for continued placement of the nursing home residents in the hospital.

(12)

(d) Notwithstanding paragraph (b), reimbursement fees to physicians for providing total obstetrical services to Medicaid recipients, which include prenatal, delivery, and postpartum care, shall be at least $1,500 per delivery for a pregnant woman with low medical risk and at least $2,000 per delivery for a pregnant woman with high medical risk. However, reimbursement to physicians working in Regional Perinatal Intensive Care Centers designated pursuant to chapter 383, for services to certain pregnant Medicaid recipients with a high medical risk, may be made according to obstetrical care and neonatal care groupings and rates established by the agency. Nurse midwives licensed under chapter 464 or midwives licensed under chapter 467 shall be reimbursed at no less than 80 percent of the low medical risk fee. ~~However, midwives licensed under chapter 467 shall not receive Medicaid reimbursement for home deliveries conducted for Medicaid recipients, but shall be reimbursed for prenatal and postpartal care provided to such recipients.~~ The agency shall by rule determine, for the purpose of this paragraph, what constitutes a high or low medical risk pregnant woman and *may* ~~shall~~ not pay more based solely on the fact that a caesarean section was performed, rather than a vaginal delivery. *Reimbursement for labor management must be prorated when services are received by a Medicaid recipient in a licensed birth center.* The agency shall by rule determine a prorated payment for obstetrical services in cases where only part of the total prenatal, delivery, or postpartum care was performed.

Section 20. Section 409.9081, Florida Statutes, is amended to read:

409.9081 Copayments *and coinsurance.*—

~~(1) Effective July 1, 1993,~~ The agency shall require~~, subject to federal regulations and limitations,~~ each Medicaid recipient to pay at the time of service a ~~nominal~~ copayment *or coinsurance payment as provided* for *in the General Appropriations Act and subject to federal regulations and limitations.* ~~the following Medicaid services:~~

~~(a) Hospital outpatient services: up to $2 for each hospital outpatient visit.~~

~~(b) Physician services: up to $2 copayment for each visit with a physician licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 463.~~

~~(2) The agency or Health Care Administration shall study the level of success in collecting copayments from recipients and the administrative costs in attempting to collect copayments. The agency shall report to the Legislature the results of its study by January 1, 1994.~~

~~(3) In accordance with federal regulations, the agency shall not require copayments of the following Medicaid recipients:~~

~~(a) Children under age 21.~~

~~(b) Pregnant women when the services relate to the pregnancy or to any other medical condition which may complicate the pregnancy up to 6 weeks after delivery.~~

~~(c) Any individual who is an inpatient in a hospital, long term care facility, or other medical institution if, as a condition of receiving services in the institution, that individual is required to spend all but a minimal amount of his income required for personal needs for medical care costs.~~

~~(d) Any individual who requires emergency services after the sudden onset of a medical condition which, left untreated, would place the individual's health in serious jeopardy.~~

~~(e) Any individual when the services or supplies relate to family planning.~~

~~(f) Any individual who is enrolled in a Medicaid prepaid health plan or health maintenance organization.~~

~~(4) No provider shall impose more than one copayment for any encounter upon a Medicaid recipient.~~

~~(5) The agency shall develop a mechanism by which participating providers are able to identify those Medicaid recipients from whom they shall not collect copayments.~~

Section 21. Section 409.9102, Florida Statutes, is created to read:

409.9102 Recovery of child medical care expenditures.—

(1) The Agency for Health Care Administration, in administering the Medicaid program, may petition for an order from the circuit court garnishing the wages, salary, or other employment income of, or an order that requires withholding amounts from state tax refunds to, any person who:

(a) Is required by court order to provide coverage for the costs of health services to a child who is eligible for medical assistance under Medicaid.

(b) Has received payment from a third party for costs of such services to the child and has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the health care provider of such services.

(2) The agency may file the petition for garnishment with the circuit court in the county of residence of the garnishee or the child or in the county in which the agency maintains its headquarters. An order of garnishment issued by the court shall be limited to the recovery of expenditures incurred by Medicaid in providing health care services to the child. Any claims for current or past-due child support shall take priority over any such claims for the costs of such health services.

Section 22. Section 409.911, Florida Statutes, is amended to read:

409.911 Disproportionate share program.—Subject to specific allocations established within the General Appropriations Act and any limitations established pursuant to chapter 216, the *agency* ~~department~~ shall distribute, pursuant to this section, moneys to hospitals providing a disproportionate share of Medicaid or charity care services by making quarterly Medicaid payments as required. Notwithstanding ~~the provisions of~~ s. 409.915, counties are exempt from contributing toward the cost of this special reimbursement for hospitals serving a disproportionate share of low-income patients.

(1) Definitions.—As used in this section and s. 409.9112:

(a) "Adjusted patient days" means the sum of acute care patient days and intensive care patient days as reported to the *agency* ~~Department of Health and Rehabilitative Services~~, divided by the ratio of inpatient revenues generated from acute, intensive, ambulatory, and ancillary patient services to gross revenues.

(b) "Actual audited data" or "actual audited experience" means data reported to the *agency* ~~Department of Health and Rehabilitative Services~~ which has been audited in accordance with generally accepted auditing standards by the *agency* ~~department~~ or representatives under contract with the *agency* ~~department~~.

(c) "Base Medicaid per diem" means the hospital's Medicaid per diem rate initially established by the *agency* ~~Department of Health and Rehabilitative Services~~ on January 1, prior to the beginning of each state fiscal year. The base Medicaid per diem rate *may* ~~shall~~ not include any additional per diem increases received as a result of the disproportionate share distribution.

(d) "Charity care" or "uncompensated charity care" means that portion of hospital charges reported to the *agency* ~~Department of Health and Rehabilitative Services~~ for which there is no compensation for care provided to a patient whose family income for the 12 months preceding the determination is less than or equal to 150 percent of the federal poverty level, unless the amount of hospital charges due from the patient exceeds 25 percent of the annual family income. However, ~~in no case shall~~ the hospital charges for a patient whose family income exceeds four times the federal poverty level for a family of four *may not* be considered charity.

(e) "Charity care days" means the sum of the deductions from revenues for charity care minus 50 percent of restricted and unrestricted revenues provided to a hospital by local governments or tax districts, divided by gross revenues per adjusted patient day.

(f) "Disproportionate share percentage" means a rate of increase in the Medicaid per diem rate as calculated under this section.

(g) "Hospital" means a health care institution licensed as a hospital pursuant to chapter 395, but does not include ambulatory surgical centers.

(h) "Medicaid days" means the number of actual days attributable to Medicaid patients as determined by the *agency* ~~Department of Health and Rehabilitative Services~~.

(2) The *agency* ~~Department of Health and Rehabilitative Services~~ shall utilize the following criteria to determine if a hospital qualifies for a disproportionate share payment:

(a) A hospital's total Medicaid days when combined with its total charity care days must equal or exceed 7 percent of its total adjusted patient days.

(b) A hospital's total charity care days weighted by a factor of 4.5, plus its total Medicaid days weighted by a factor of 1, *must* ~~shall be~~ equal ~~to~~ or *exceed* ~~greater than~~ 10 percent of its total adjusted patient days.

(c) Additionally, in accordance with the seventh federal Omnibus Budget Reconciliation Act, a hospital with a Medicaid inpatient utilization rate greater than one standard deviation above the statewide mean or a hospital with a low-income utilization rate of 25 percent or greater *qualifies* ~~shall qualify~~ for reimbursement.

(3) In computing the disproportionate share rate:

(a) Per diem increases earned from disproportionate share shall be applied to each hospital's base Medicaid per diem rate and shall be capped at 170 percent.

(b) The *agency* ~~department~~ shall use the most recent calendar year audited data available at the beginning of each state fiscal year for the calculation of disproportionate share payments under this section.

(c) If the total amount earned by all hospitals under this section exceeds the amount appropriated, each hospital's share shall be reduced on a pro rata basis so that the total dollars distributed from the trust fund do not exceed the total amount appropriated.

(d) The total amount calculated to be distributed under this section shall be made in quarterly payments subsequent to each quarter during the fiscal year.

(4) Hospitals that qualify for a disproportionate share payment solely under paragraph (2)(c) shall have their payment calculated in accordance with the following formulas:

$$TAA = TA \times (1/5.5)$$
$$DSHP = (HMD/TSMD) \times TAA$$

Where:

TAA = total amount available.

TA = total appropriation.

DSHP = disproportionate share hospital payment.

HMD = hospital Medicaid days.

TSMD = total state Medicaid days.

(5) The following formula shall be utilized by the *agency* ~~department~~ to determine the maximum disproportionate share rate to be used to increase the Medicaid per diem rate for hospitals that qualify pursuant to paragraphs (2)(a) and (b):

$$DSR = \left(\left(\frac{CCD}{APD}\right) \times 4.5\right) + \left(\frac{MD}{APD}\right)$$

Where:

APD = adjusted patient days.

CCD = charity care days.

DSR = disproportionate share rate.

MD = Medicaid days.

(6) ~~For fiscal year 1992-1993 only,~~ The following criteria shall be used in determining the disproportionate share percentage:

(a) If the disproportionate share rate is less than 10 percent, the disproportionate share percentage is zero and there is no additional payment.

(b) If the disproportionate share rate is greater than or equal to 10 percent, but less than 20 percent, then the disproportionate share percentage is 1.8478498.

(c) If the disproportionate share rate is greater than or equal to 20 percent, but less than 30 percent, then the disproportionate share percentage is 3.4145488.

(d) If the disproportionate share rate is greater than or equal to 30 percent, but less than 40 percent, then the disproportionate share percentage is 6.3095734.

(e) If the disproportionate share rate is greater than or equal to 40 percent, but less than 50 percent, then the disproportionate share percentage is 11.6591440.

(f) If the disproportionate share rate is greater than or equal to 50 percent, but less than 60 percent, then the disproportionate share percentage is 73.5642254.

(g) If the disproportionate share rate is greater than or equal to 60 percent, but less than 72.5 percent, then the disproportionate share percentage is 135.9356391.

(h) If the disproportionate share rate is greater than or equal to 72.5 percent, then the disproportionate share percentage is 170.00.

(7)(a) To calculate the total amount earned by all hospitals under this section, hospitals with a disproportionate share rate less than 50 percent shall divide their Medicaid days by four, and hospitals with a disproportionate share rate greater than or equal to 50 percent and with greater than 40,000 Medicaid days shall multiply their Medicaid days by 1.5, and the following formula shall be used by the *agency* ~~department~~ to calculate the total amount earned by all hospitals under this section:

$$TAE = BMPD \times MD \times DSP$$

Where:

TAE = total amount earned.

BMPD = base Medicaid per diem.

MD = Medicaid days.

DSP = disproportionate share percentage.

(b) ~~In no case shall~~ Total payments to a hospital under this section, with the exception of state facilities, *may not* exceed the total amount of uncompensated charity care of the hospital, as determined by the *agency* ~~department~~ according to the most recent calendar year audited data available at the beginning of each state fiscal year.

~~(8) For fiscal year 1991-1992 and all years other than 1992-1993, The following criteria shall be used in determining the disproportionate share percentage:~~

~~(a) If the disproportionate share rate is less than 10 percent, the disproportionate share percentage is zero and there is no additional payment.~~

~~(b) If the disproportionate share rate is greater than or equal to 10 percent, but less than 20 percent, then the disproportionate share percentage is 2.1544347.~~

~~(c) If the disproportionate share rate is greater than or equal to 20 percent, but less than 30 percent, then the disproportionate share percentage is 4.6415888766.~~

~~(d) If the disproportionate share rate is greater than or equal to 30 percent, but less than 40 percent, then the disproportionate share percentage is 10.0000001388.~~

~~(e) If the disproportionate share rate is greater than or equal to 40 percent, but less than 50 percent, then the disproportionate share percentage is 21.544347299.~~

~~(f) If the disproportionate share rate is greater than or equal to 50 percent, but less than 60 percent, then the disproportionate share percentage is 46.41588941.~~

~~(g) If the disproportionate share rate is greater than or equal to 60 percent, then the disproportionate share percentage is 100.~~

(8)~~(9)~~ The following formula shall be used by the *agency* ~~department~~ to calculate the total amount earned by all hospitals under this section:

$$TAE = BMPD \times MD \times DSP$$

Where:

TAE = total amount earned.

BMPD = base Medicaid per diem.

MD = Medicaid days.

DSP = M disproportionate share percentage.

(9)~~(10)~~ The *agency may* ~~department is authorized to~~ receive funds from local governments and other local political subdivisions for the purpose of making payments, including federal matching funds, through the Medicaid disproportionate share program. Funds received from local governments for this purpose shall be separately accounted for and *may* ~~shall~~ not be commingled with other state or local funds in any manner.

(10)~~(11)~~ Payments made by the *agency* ~~department~~ to hospitals eligible to participate in this program shall be made in accordance with federal rules and regulations.

(a) If the Federal Government prohibits, restricts, or changes in any manner the methods by which funds are distributed for this program, the *agency may* ~~department shall~~ not distribute any additional funds and shall return all funds to the local government from which the funds were received, except as provided in paragraph (b).

(b) If the Federal Government imposes a restriction that still permits a partial or different distribution, the *agency* ~~department~~ may continue to disburse funds to hospitals participating in the disproportionate share program in a federally approved manner, *if* ~~provided~~:

1. Each local government *that* ~~which~~ contributes to the disproportionate share program agrees to the new manner of distribution as shown by a written document signed by the governing authority of each local government; and

2. The Executive Office of the Governor, the Office of Planning and Budgeting, the House of Representatives, and the Senate are provided at least 7 days' prior notice of the proposed change in the distribution, and do not disapprove such change.

(c) ~~No~~ Distribution *may not* ~~shall~~ be made under the alternative method specified in paragraph (b) unless all parties agree or unless all funds of those parties that disagree which are not yet disbursed have been returned to those parties.

(11)~~(12)~~ Notwithstanding ~~the provisions of~~ chapter 216, the Executive Office of the Governor *may* ~~is hereby authorized to~~ establish sufficient trust fund authority to implement the disproportionate share program.

Section 23. Section 409.9112, Florida Statutes, is amended to read:

409.9112 Disproportionate share program for regional perinatal intensive care centers.—In addition to the payments made under s. 409.911, the *agency* ~~Department of Health and Rehabilitative Services~~ shall design and implement a system of making disproportionate share payments to those hospitals that participate in the regional perinatal intensive care center program established pursuant to chapter 383. This system of payments shall conform with federal requirements and shall distribute funds in each fiscal year for which an appropriation is made by making quarterly Medicaid payments. Notwithstanding ~~the provisions of~~ s. 409.915, counties are exempt from contributing toward the cost of this special reimbursement for hospitals serving a disproportionate share of low-income patients.

(1) The following formula shall be used by the *agency* ~~department~~ to calculate the total amount earned for hospitals that participate in the regional perinatal intensive care center program:

$$TAE = DSR \times BMPD \times MD$$

Where:

TAE = total amount earned by a regional perinatal intensive care center.

DSR = disproportionate share rate.

BMPD = base Medicaid per diem.

MD = Medicaid days.

(2) The total additional payment for hospitals that participate in the regional perinatal intensive care center program shall be calculated by the *agency* ~~department~~ as follows:

$$TAP = \left(\frac{TAE \times TA}{STAE}\right)$$

Where:

TAP = total additional payment for a regional perinatal intensive care center.

TAE = total amount earned by a regional perinatal intensive care center.

STAE = sum of total amount earned by each hospital that participates in the regional perinatal intensive care center program.

TA = total appropriation for the regional perinatal intensive care disproportionate share program.

(3) In order to receive payments under this section, a hospital must be participating in the regional perinatal intensive care center program pursuant to chapter 383 and must meet the following additional requirements:

(a) Agree to conform to all *agency* ~~departmental~~ requirements to ensure high quality in the provision of services, including criteria adopted by *agency* ~~departmental~~ rule concerning staffing ratios, medical records, standards of care, equipment, space, and ~~such~~ other standards and criteria *that* ~~as~~ the *agency* ~~department~~ deems appropriate as specified by rule.

(b) Agree to provide information to the *agency* ~~department~~, in a form and manner to be prescribed by rule of the *agency* ~~department~~, concerning the care provided to all patients in neonatal intensive care centers and high-risk maternity care.

(c) Agree to accept all patients for neonatal intensive care and high-risk maternity care, regardless of ability to pay, on a functional space-available basis.

(d) Agree to develop arrangements with other maternity and neonatal care providers in the hospital's region for the appropriate receipt and transfer of patients in need of specialized maternity and neonatal intensive care services.

(e) Agree to establish and provide a developmental evaluation and services program for certain high-risk neonates, as prescribed and defined by rule of the Department *of Health and Rehabilitative Services*.

(f) Agree to sponsor a program of continuing education in perinatal care for health care professionals within the region of the hospital, as specified by rule.

(g) Agree to provide backup and referral services to the ~~department's~~ county public health units *of the Department of Health and Rehabilitative Services* and *to* other low-income perinatal providers within the hospital's region, including the development of written agreements between these organizations and the hospital.

(h) Agree to arrange for transportation for high-risk obstetrical patients and neonates in need of transfer from the community to the hospital or from the hospital to another more appropriate facility.

(4) Hospitals *that* ~~which~~ fail to comply with any of the conditions in subsection (3) or the applicable rules of the *agency may* ~~department shall~~ not receive any payments under this section until full compliance is achieved. A hospital *that* ~~which~~ is not in compliance in two or more consecutive quarters *may* ~~shall~~ not receive its share of the funds. Any forfeited funds shall be distributed by the remaining participating regional perinatal intensive care center program hospitals.

Section 24. Paragraphs (b), (d), and (e) of subsection (2) and subsections (6) and (7) of section 20.42, Florida Statutes, 1994 Supplement, are amended to read:

20.42 Agency for Health Care Administration.—There is created the Agency for Health Care Administration within the Department of Business and Professional Regulation The agency shall be a separate budget entity, and the director of the agency shall be the agency head for all purposes. The agency shall not be subject to control, supervision, or direction by the Department of Business and Professional Regulation in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.

(2) ORGANIZATION OF THE AGENCY.—The agency shall be organized as follows:

(b) The Division of Health Policy and Cost Control, which shall be responsible for health policy, the State Center for Health Statistics, the development of The Florida Health Plan, certificate of need, ~~hospital budget review,~~ state and local health planning under s. 408.033, and research and analysis.

~~(d) The Health Care Board, which shall be responsible for hospital budget review, nursing home financial analysis, and special studies as assigned by the secretary or the Legislature.~~

(d)~~(e)~~ The Division of Administrative Services, which shall be responsible for revenue management, budget, personnel, and general services.

~~(6) HEALTH CARE BOARD.—The Health Care Board shall be composed of 11 members appointed by the Governor, subject to confirmation by the Senate. The members of the board shall biennially elect a chairperson and a vice chairperson from its membership. The board shall be responsible for hospital budget review, nursing home financial review and analysis, and special studies requested by the Governor, the Legislature, or the director.~~

(6)~~(7)~~ DEPUTY DIRECTOR OF ADMINISTRATIVE SERVICES.—The director shall appoint a Deputy Director of Administrative Services who shall serve at the pleasure of, and be directly responsible to, the director. The deputy director shall be responsible for the Division of Administrative Services.

Section 25. Section 112.153, Florida Statutes, is amended to read:

112.153 Local governmental group insurance plans; refunds with respect to overcharges by providers.—A participant in a group insurance plan offered by a county, municipality, school board, local governmental unit, and special taxing unit, who discovers that he was overcharged by a hospital, physician, clinical lab, and other health care providers, shall receive a refund of 50 percent of any amount recovered as a result of such overcharge, up to a maximum of $1,000 per admission. All such instances of overcharge shall be reported to the *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~ for action it deems appropriate.

Section 26. Subsections (1), (4), and (8) of section 154.304, Florida Statutes, are amended to read:

154.304 Definitions.—For the purpose of this act:

(1) *"Agency" means the Agency for Health Care Administration* ~~"Board" means the Health Care Board as established in chapter 408~~.

(4) "Charity care obligation" means the minimum amount of uncompensated charity care as reported to the *agency* ~~Health Care Cost Containment Board~~, based on the hospital's most recent audited actual experience, which must be provided by a participating hospital or a regional referral hospital before the hospital is eligible to be reimbursed by a county under the provisions of this act. That amount shall be the ratio of uncompensated charity care days compared to total acute care inpatient days, which shall be equal to or greater than 2 percent.

(8) "Participating hospital" means a hospital which is eligible to receive reimbursement under the provisions of this act because it has been certified by the *agency* ~~board~~ as having met its charity care obligation and has either:

(a) A formal signed agreement with a county or counties to treat such county's indigent patients; or

(b) Demonstrated to the *agency* ~~board~~ that at least 2.5 percent of its uncompensated charity care, as reported to the *agency* ~~board~~, is generated by out-of-county residents.

Section 27. Paragraph (d) of subsection (4) and paragraph (c) of subsection (6) of section 212.055, Florida Statutes, 1994 Supplement, are amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(4) INDIGENT CARE SURTAX.—

(d) The ordinance adopted by the governing body providing for the imposition of the surtax shall set forth a plan for providing health care services to qualified residents, as defined in paragraph (e). Such plan and subsequent amendments to it shall fund a broad range of health care services for both indigent persons and the medically poor, including, but not limited to, primary care and preventive care as well as hospital care. It shall emphasize a continuity of care in the most cost-effective setting, taking into consideration both a high quality of care and geographic access. Where consistent with these objectives, it shall include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. It shall provide that agreements negotiated between the county and providers will include reimbursement methodologies that take into account the cost of services rendered to eligible patients, recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care, and require cost containment including, but not limited to, case management. It must also provide that any hospitals that are owned and operated by government entities on May 21, 1991, must, as a condition of receiving funds under this subsection, afford public access equal to that provided under s. 286.011 as to meetings of the governing board, the subject of which is budgeting resources for the rendition of charity care as that term is defined in the rules of the *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~. The plan *must* ~~shall~~ also include innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding.

(6) SMALL COUNTY INDIGENT CARE SURTAX.—

(c) The ordinance adopted by the governing body providing for the imposition of the surtax shall set forth a brief plan for providing health care services to qualified residents, as defined in paragraph (d). Such plan and subsequent amendments to it shall fund a broad range of health care services for both indigent persons and the medically poor, including, but not limited to, primary care and preventive care as well as hospital care. It shall emphasize a continuity of care in the most cost-effective setting, taking into consideration both a high quality of care and geographic access. Where consistent with these objectives, it shall include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. It shall provide that agreements negotiated between the county and providers will include reimbursement methodologies that take into account the cost of services rendered to eligible patients, recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care, and require cost containment including, but not limited to, case management. It shall also provide that any hospitals that are owned and operated by government entities on May 21, 1991, must, as a condition of receiving funds under this subsection, afford public access equal to that provided under s. 286.011 as to meetings of the governing board, the subject of which is budgeting resources for the rendition of charity care as that term is defined in the rules of the *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~. The plan *must* ~~shall~~ also include innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding.

Section 28. Subsections (2) and (3) of section 394.4788, Florida Statutes, are amended to read:

394.4788 Use of certain PMATF funds for the purchase of acute care mental health services.—

(2) ~~By October 1, 1989, and annually thereafter,~~ The *Agency for Health Care Administration* ~~HCCB~~ shall *annually* calculate a per diem reimbursement rate for each specialty psychiatric hospital to be paid to the specialty psychiatric hospitals for the provision of acute mental health services provided to indigent mentally ill patients who meet the criteria in subsection (1). After the first rate period, providers shall be notified of new reimbursement rates for each new state fiscal year by June 1. The new reimbursement rates shall commence July 1.

(3) Reimbursement rates shall be calculated using the most recent audited actual costs received by the *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~. Cost data received ~~as of August 15, 1989, and~~ each April 15 ~~thereafter~~ shall be used in the calculation of the rates. Historic costs shall be inflated from the midpoint of a hospital's fiscal year to the midpoint of the state fiscal year. The inflation adjustment shall be made utilizing the latest available projections as of March 31 for the Data Resources Incorporated National and Regional Hospital Input Price Indices as calculated by the Medicaid program office.

Section 29. Subsection (1) of section 395.0163, Florida Statutes, is amended to read:

395.0163 Construction inspections; plan submission and approval; fees.—

(1) The agency shall make, or cause to be made, such construction inspections and investigations as it deems necessary. The agency may prescribe by rule that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition, or new construction, submit plans and specifications therefor to the agency for preliminary inspection and approval or recommendation with respect to compliance with agency rules and standards. The agency shall approve or disapprove the plans and specifications within 60 days after receipt of the fee for review of plans as required in subsection (2). The agency may be granted one 15-day extension for the review period if the director of the agency approves the extension. If the agency fails to act within the specified time, it shall be deemed to have approved the plans and specifications. When the agency disapproves plans and specifications, it shall set forth in writing the reasons for its disapproval. Conferences and consultations may be provided as necessary. *All detached outpatient facilities that are in compliance with the State Minimum Building Codes under s. 553.73 as determined by local governments and the Uniform Fire-safety Standards under s. 633 022, except ambulatory surgical centers, cardiac catheterization facilities, and mobile units, are exempt from all review under this section.*

Section 30. Paragraphs (a) and (b) of subsection (1) of section 395.401, Florida Statutes, are amended to read:

395 401 Trauma services system plans; verification of trauma centers and pediatric trauma referral centers; procedures; renewal.—

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

(a) *"Agency" means the Agency for Health Care Administration* ~~"Board" means the Health Care Board~~.

(b) "Charity care" or "uncompensated charity care" means that portion of hospital charges reported to the *agency* ~~board~~ for which there is no compensation for care provided to a patient whose family income for the 12 months preceding the determination is less than or equal to 150 percent of the federal poverty level, unless the amount of hospital charges due from the patient exceeds 25 percent of the annual family income. However, in no case shall the hospital charges for a patient whose family income exceeds 4 times the federal poverty level for a family of four be considered charity.

Section 31. Subsections (1), (2), (3), and (4) of section 395.701, Florida Statutes, are amended to read:

395.701 Annual assessments on net operating revenues to fund public medical assistance; administrative fines for failure to pay assessments when due.—

(1) For the purposes of this section, the term:

(a) "Agency" means the Agency for Health Care Administration.

(b)~~(a)~~ "Gross operating revenue" or "gross revenue" means the sum of daily hospital service charges, ambulatory service charges, ancillary service charges, and other operating revenue.

~~(b) "Health Care Board" or "board" means the Health Care Board created by s. 20.42.~~

(c) "Hospital" means a health care institution as defined in s. 395.002(12), but does not include any hospital operated by the agency or the Department of Corrections.

(d) "Net operating revenue" or "net revenue" means gross revenue less deductions from revenue.

(e) "Total deductions from gross revenue" or "deductions from revenue" means reductions from gross revenue resulting from inability to collect payment of charges. Such reductions include bad debts; contractual adjustments; uncompensated care; administrative, courtesy, and policy discounts and adjustments; and other such revenue deductions, but also includes the offset of restricted donations and grants for indigent care.

(2) There is ~~hereby~~ imposed upon each hospital an assessment in an amount equal to 1.5 percent of the annual net operating revenue for each hospital, such revenue to be determined by the *agency* ~~department~~, based on the actual experience of the hospital as reported to the *agency* ~~department~~. Within 6 months after the end of each hospital fiscal year, the *agency* ~~department~~ shall certify the amount of the assessment for each hospital. The assessment shall be payable to and collected by the *agency* ~~department~~ in equal quarterly amounts, on or before the first day of each calendar quarter, beginning with the first full calendar quarter that occurs after the *agency* ~~department~~ certifies the amount of the assessment for each hospital. All moneys collected pursuant to this subsection shall be deposited into the Public Medical Assistance Trust Fund.

(3) The *agency* ~~department~~ shall impose an administrative fine, not to exceed $500 per day, for failure of any hospital to pay its assessment by the first day of the calendar quarter on which it is due. The failure of a hospital to pay its assessment within 30 days after the assessment is due is ground for the *agency* ~~department~~ to impose an administrative fine not to exceed $5,000 per day.

(4) The purchaser, successor, or assignee of a facility subject to the *agency's* ~~board's~~ jurisdiction shall assume full liability for any assessments, fines, or penalties of the facility or its employees, regardless of when identified. Such assessments, fines, or penalties shall be paid by the employee, owner, or licensee who incurred them, within 15 days of the sale, transfer, or assignment. However, the purchaser, successor, or assignee of the facility may withhold such assessments, fines, or penalties from purchase moneys or payment due to the seller, transferor, or employee, and shall make such payment on behalf of the seller, transferor, or employee. Any employer, purchaser, successor, or assignee who fails to withhold sufficient funds to pay assessments, fines, or penalties arising under the provisions of chapter 408 shall make such payments within 15 days of the date of the transfer, purchase, or assignment. Failure by the transferee to make payments as provided in this subsection shall subject such transferee to the penalties and assessments provided in chapter 408. Further, in the event of sale, transfer, or assignment of any facility under the *agency's* ~~board's~~ jurisdiction, future assessments shall be based upon the most recently available prior year report or audited actual experience for the facility. It shall be the responsibility of the new owner or licensee to require the production of the audited financial data for the period of operation of the prior owner. If the transferee fails to obtain current audited financial data from the previous owner or licensee, the new owner shall be assessed based upon the most recent year of operation for which 12 months of audited actual experience are available or upon a reasonable estimate of 12 months of full operation as calculated by the *agency* ~~board~~.

Section 32. Section 395.804, Florida Statutes, is amended to read:

395.804 Distribution of funds from the Medical Education and Tertiary Care Trust Fund.—On or before September 15 of each year, the *Agency for Health Care Administration* ~~board~~, in consultation with the Board of Regents, shall calculate an allocation fraction to be used for distributing funds from the Medical Education and Tertiary Care Trust Fund. At the end of each quarter of the state fiscal year, the Board of Regents shall distribute from the fund to each statutory teaching hospital, as defined in s. 408.07, an amount determined by multiplying one-fourth of the funds appropriated to the Medical Education and Tertiary Care Trust Fund times such hospital's allocation fraction. The allocation fraction for each such hospital shall be determined by the sum of three primary factors, divided by three. The primary factors are:

(1) The number of nationally accredited graduate medical education programs offered by the hospital, including programs accredited by the Accreditation Council for Graduate Medical Education and the combined Internal Medicine and Pediatrics programs acceptable to both the American Board of Internal Medicine and the American Board of Pediatrics at the beginning of the state fiscal year preceding the date on which the allocation fraction is calculated. The numerical value of this factor is the fraction that the hospital represents of the total number of programs, where the total is computed for all state statutory teaching hospitals.

(2) The number of full-time equivalent trainees in the hospital, which comprises two components:

(a) The number of trainees enrolled in nationally accredited graduate medical education programs, as defined in subsection (1). Full-time equivalents are computed using the fraction of the year during which each trainee is primarily assigned to the given institution, over the state fiscal year preceding the date on which the allocation fraction is calculated. The numerical value of this factor is the fraction that the hospital represents of the total number of full-time equivalent trainees enrolled in accredited graduate programs, where the total is computed for all state statutory teaching hospitals.

(b) The number of medical students enrolled in accredited colleges of medicine and engaged in clinical activities, including required clinical clerkships and clinical electives. Full-time equivalents are computed using the fraction of the year during which each trainee is primarily assigned to the given institution, over the course of the state fiscal year preceding the date on which the allocation fraction is calculated. The numerical value of this factor is the fraction that the given hospital represents of the total number of full-time equivalent students enrolled in accredited colleges of medicine, where the total is computed for all state statutory teaching hospitals.

The primary factor for full-time equivalent trainees is computed as the sum of these two components, divided by two.

(3) A service index which comprises three components:

(a) The *Agency for Health Care Administration* ~~Health Care Board~~ Service Index, computed by applying the standard Service Inventory Scores established by the *agency* ~~board~~ to services offered by the given hospital, as reported on ~~the Health Care Board~~ Worksheet A-2 for the last fiscal year reported to the *agency* ~~board~~ before the date on which the allocation fraction is calculated. The numerical value of this factor is the fraction that the given hospital represents of the total *Agency for Health Care Administration* ~~Health Care Board~~ Service Index values, where the total is computed for all state statutory teaching hospitals.

(b) A volume-weighted service index, computed by applying the standard Service Inventory Scores established by the *agency* ~~board~~ to the volume of each service, expressed in terms of the standard units of measure reported on ~~the Health Care Board~~ Worksheet A-2 for the last fiscal year reported to the *agency* ~~board~~ before the date on which the allocation factor is calculated. The numerical value of this factor is the fraction that the given hospital represents of the total volume-weighted service index values, where the total is computed for all state statutory teaching hospitals.

(c) Total Medicaid payments to each hospital for direct inpatient and outpatient services during the fiscal year preceding the date on which the allocation factor is calculated. This includes payments made to each hospital for such services by Medicaid prepaid health plans, whether the plan was administered by the hospital or not. The numerical value of this factor is the fraction that each hospital represents of the total of such Medicaid payments, where the total is computed for all state statutory teaching hospitals.

The primary factor for the service index is computed as the sum of these three components, divided by three.

Section 33. Section 407.61, Florida Statutes, is transferred, renumbered as section 408.0625, Florida Statutes, and amended to read:

408.0625 ~~407.61~~ ~~Board~~ Studies *by the agency.*—The *agency may* ~~board is empowered to~~ conduct *data-based* ~~data based~~ studies and evaluations and ~~to~~ make recommendations to the Legislature and the Governor concerning exemptions, the effectiveness of limitations of referrals, restrictions on investment interests and compensation arrangements, and effectiveness of public disclosure. Such analysis may include, but not be limited to, utilization of services, cost of care, quality of care, and access to care.

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

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

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

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

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

(b) A statement of income and expenses.

(c) A statement of cash flows.

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

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

Section 34. Paragraph (c) of subsection (2) of section 408.001, Florida Statutes, is amended to read:

408.001 Florida Health Care Purchasing Cooperative.—

(2) CORPORATION AUTHORIZATION, DUTIES, POWERS.—

(c) The Florida Health Care Purchasing Cooperative shall:

1. Establish administrative and accounting procedures for the operation of the corporation.

2. Secure staff necessary to properly administer the corporation.

3. Develop and implement a plan to publicize the Florida Health Care Purchasing Cooperative, the eligibility requirements for membership, and the procedures for becoming members of the cooperative and to maintain public awareness of the cooperative and its services.

4. Identify third-party payers and health care provider networks that serve members of the cooperative.

5. Collect data on costs and utilization of health care services from members of the cooperative, health care providers that provide services to employees and clients of members of the cooperative, and third-party payers for members of the cooperative. The cooperative shall protect the confidentiality and regulate the disclosure of data and records collected and maintained by the cooperative when such data and records contain information:

a. Of a sensitive, personal or medical nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals; or

b. That is used to protect or further a business advantage over those who do not know or use that information, and the disclosure of which would injure the affected entity in the marketplace.

Notwithstanding s. 119.14, all information obtained prior to October 1, 2001, and determined to be confidential pursuant to this subparagraph is exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

6. Compare cost and utilization data collected pursuant to subparagraph 5. with data collected by the *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~. Because of the importance of data collection and analysis to the success of the cooperative, the cooperative shall carry out its responsibilities in conjunction with the *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~ and use that *agency's data-gathering* ~~board's data gathering~~ and analysis capabilities as the board of directors considers appropriate.

7. Establish criteria for evaluating health care provider networks and third-party payers, seeking advice from providers and third-party payers serving members of the cooperative.

8. Evaluate health care provider networks and third-party payers.

9. Inform members of the cooperative about the results of evaluations of health care provider networks and third-party payers.

Section 35. Section 408.07, Florida Statutes, is amended to read:

408.07 Definitions.—As used in this chapter, with the exception of ss. 408.031-408.045, the term:

(1) "Accepted" means that the *agency* ~~board~~ has found that a report or data submitted by a health care facility or a health care provider contains all schedules and data required by the *agency* ~~board~~ and has been prepared in the format specified by the *agency* ~~board~~, and otherwise conforms to applicable rule or Florida Hospital Uniform Reporting System manual requirements regarding reports in effect at the time such report was submitted, and the data are mathematically reasonable and accurate.

(2) "Adjusted admission" means the sum of acute and intensive care admissions divided by the ratio of inpatient revenues generated from acute, intensive, ambulatory, and ancillary patient services to gross revenues. If a hospital reports only subacute admissions, then "adjusted admission" means the sum of subacute admissions divided by the ratio of total inpatient revenues to gross revenues.

(3) "Agency" means the Agency for Health Care Administration.

(4) "Alcohol or chemical dependency treatment center" means an organization licensed under chapter 396 or chapter 397.

(5) "Ambulatory care center" means an organization which employs or contracts with licensed health care professionals to provide diagnosis or treatment services predominantly on a walk-in basis and the organization holds itself out as providing care on a walk-in basis. Such an organization is not an ambulatory care center if it is wholly owned and operated by five or fewer health care providers.

(6) "Ambulatory surgical center" means a facility licensed as an ambulatory surgical center under chapter 395.

~~(7) "Applicable rate of increase" means the maximum allowable rate of increase (MARI) when applied to gross revenue per adjusted admission, unless the board has approved a different rate of increase, in which case the board-approved rate of increase shall apply.~~

(7)~~(8)~~ "Audited actual data" means information contained within financial statements examined by an independent, Florida-licensed, certified public accountant in accordance with generally accepted auditing standards, but does not include data within a financial statement about which the certified public accountant does not express an opinion or issues a disclaimer.

~~(9) "Banked points" means the percentage points earned by a hospital when the actual rate of increase in gross revenue per adjusted admission (GRAA) is less than the maximum allowable rate of increase (MARI) or the actual rate of increase in the net revenue per adjusted admission (NRAA) is less than the market basket index.~~

(8)~~(10)~~ "Birth center" means an organization licensed under s. 383.305.

~~(11) "Board" means the Health Care Board established under s. 408.003.~~

~~(12) "Budget" means the projections by the hospital, for a specified future time period, of expenditures and revenues, with supporting statistical indicators, or a budget letter verified by the board pursuant to s. 408.072(3)(a).~~

(9)~~(13)~~ "Cardiac catheterization laboratory" means a freestanding facility *that* ~~which~~ employs or contracts with licensed health care professionals to provide diagnostic or therapeutic services for cardiac conditions such as cardiac catheterization or balloon angioplasty.

(10)~~(14)~~ "Case mix" means a calculated index for each health care facility or health care provider, based on patient data, reflecting the relative costliness of the mix of cases to that facility or provider compared to a state or national mix of cases.

(11)~~(15)~~ "Clinical laboratory" means a facility licensed under s. 483.091, excluding: any hospital laboratory defined under s. 483.041(5); any clinical laboratory operated by the state or a political subdivision of the state; any blood or tissue bank where the majority of revenues are received from the sale of blood or tissue and where blood, plasma, or tissue is procured from volunteer donors and donated, processed, stored, or distributed on a nonprofit basis; and any clinical laboratory which is wholly owned and operated by physicians who are licensed pursuant to chapter 458 or chapter 459 and who practice in the same group practice, and at which no clinical laboratory work is performed for patients referred by any health care provider who is not a member of that same group practice.

(12)~~(16)~~ "Comprehensive rehabilitative hospital" or "rehabilitative hospital" means a hospital licensed by the Agency for Health Care Administration as a specialty hospital as defined in s. 395.002; provided that the hospital provides a program of comprehensive medical rehabilitative services and is designed, equipped, organized, and operated solely to deliver comprehensive medical rehabilitative services, and further provided that all licensed beds in the hospital are classified as "comprehensive rehabilitative beds" pursuant to s. 395.003(4), and are not classified as "general beds."

(13)~~(17)~~ "Consumer" means any person other than a person who administers health activities, is a member of the governing body of a health care facility, provides health services, has a fiduciary interest in a health facility or other health agency or its affiliated entities, or has a material financial interest in the rendering of health services.

(14)~~(18)~~ "Continuing care facility" means a facility licensed under chapter 651.

(15)~~(19)~~ "Cross-subsidization" means that the revenues from one type of hospital service are sufficiently higher than the costs of providing such service as to offset some of the costs of providing another type of service in the hospital. Cross-subsidization results from the lack of a direct relationship between charges and the costs of providing a particular hospital service or type of service.

(16)~~(20)~~ "Deductions from gross revenue" or "deductions from revenue" means reductions from gross revenue resulting from inability to collect payment of charges. For hospitals, such reductions include contractual adjustments; uncompensated care; administrative, courtesy, and policy discounts and adjustments; and other such revenue deductions, but also includes the offset of restricted donations and grants for indigent care.

(17)~~(21)~~ "Diagnostic imaging center" means a freestanding outpatient facility that provides specialized services for the diagnosis of a disease by examination and also provides radiological services. Such a facility is not a diagnostic imaging center if it is wholly owned and operated by physicians who are licensed pursuant to chapter 458 or chapter 459 and who practice in the same group practice and no diagnostic imaging work is performed at such facility for patients referred by any health care provider who is not a member of that same group practice.

(18)~~(22)~~ "FHURS" means the Florida Hospital Uniform Reporting System developed by the *agency* ~~board~~.

(19)~~(23)~~ "Freestanding" means that a health facility bills and receives revenue which is not directly subject to the hospital assessment for the Public Medical Assistance Trust Fund as described in s. 395.701.

(20)~~(24)~~ "Freestanding radiation therapy center" means a facility where treatment is provided through the use of radiation therapy machines that are registered under s. 404.22 and the provisions of the Florida Administrative Code implementing s. 404.22. Such a facility is not a freestanding radiation therapy center if it is wholly owned and operated by physicians licensed pursuant to chapter 458 or chapter 459 who practice within the specialty of diagnostic or therapeutic radiology.

(21)~~(25)~~ "GRAA" means gross revenue per adjusted admission.

(22)~~(26)~~ "Gross revenue" means the sum of daily hospital service charges, ambulatory service charges, ancillary service charges, and other operating revenue. Gross revenues do not include contributions, donations, legacies, or bequests made to a hospital without restriction by the donors.

(23)~~(27)~~ "Health care facility" means an ambulatory surgical center, a hospice, a nursing home, a hospital, a diagnostic imaging center, a freestanding or hospital-based therapy center, a clinical laboratory, a home health agency, a cardiac catheterization laboratory, a medical equipment supplier, an alcohol or chemical dependency treatment center, a physical rehabilitation center, a lithotripsy center, an ambulatory care center, a birth center, or a nursing home component licensed under chapter 400 within a continuing care facility licensed under chapter 651.

(24)~~(28)~~ "Health care provider" means a health care professional licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, chapter 464, chapter 465, chapter 466, part I, part III, part IV, part V, or part X of chapter 468, chapter 483, chapter 484, chapter 486, chapter 490, or chapter 491.

(25)~~(29)~~ "Health care purchaser" means an employer in the state, other than a health care facility, health insurer, or health care provider, who provides health care coverage for his employees.

(26)~~(30)~~ "Health insurer" means any insurance company authorized to transact health insurance in the state, any insurance company authorized to transact health insurance or casualty insurance in the state that is offering a minimum premium plan or stop-loss coverage for any person or entity providing health care benefits, any self-insurance plan as defined in s. 624.031, any health maintenance organization authorized to transact business in the state pursuant to part I of chapter 641, any prepaid health clinic authorized to transact business in the state pursuant to part II of chapter 641, any multiple-employer welfare arrangement authorized to transact business in the state pursuant to ss. 624.436-624.45, or any fraternal benefit society providing health benefits to its members as authorized pursuant to chapter 632.

(27)~~(31)~~ "Home health agency" means an organization licensed under part IV of chapter 400.

(28)~~(32)~~ "Hospice" means an organization licensed under part VI of chapter 400.

(29)~~(33)~~ "Hospital" means a health care institution licensed by the Agency for Health Care Administration as a hospital under chapter 395.

(30)~~(34)~~ "Lithotripsy center" means a freestanding facility which employs or contracts with licensed health care professionals to provide diagnosis or treatment services using electro-hydraulic shock waves.

(31)~~(35)~~ "Local health council" means the agency defined in s. 408.033.

(32)~~(36)~~ "Market basket index" means the Florida hospital input price index (FHIPI), which is a statewide market basket index used to measure inflation in hospital input prices weighted for the Florida-specific experience which uses multistate regional and state-specific price measures, when available. The index shall be constructed in the same manner as the index employed by the Secretary of the United States Department of Health and Human Services for determining the inflation in hospital input prices for purposes of Medicare reimbursement.

~~(37) "Maximum allowable rate of increase" or "MARI" means the maximum rate at which a hospital is normally expected to increase its average gross revenues per adjusted admission for a given period. The board, using the most recent audited actual data for each hospital, shall calculate the MARI for each hospital as follows: The projected rate of increase in the market basket index shall be divided by a number which is determined by subtracting the sum of one half of the proportion of Medicare days plus one half of the proportion of CHAMPUS days plus the proportion of Medicaid days plus 1.5 times the proportion of charity care days from the number one. The formula to be employed by the board to calculate the MARI shall take the following form:~~

~~FHIPI~~

~~MARI = (——————————————)~~

~~1-[(Mc × 0.5) + (Cp × 0.5) + Md + (Cc × 1.5)]~~

~~where:~~

~~MARI = maximum allowable rate of increase applied to gross revenue.~~

~~FHIPI = Florida hospital input price index, which shall be the projected rate of change in the market basket index.~~

~~Mc = proportion of Medicare days, including when available and reported to the board Medicare HMO days, to total days.~~

~~Cp = proportion of Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) days to total days.~~

~~Md = proportion of Medicaid days, including when available and reported to the board Medicaid HMO days, to total days.~~

~~Cc = proportion of charity care days to total days with a 50 percent offset for restricted grants for charity care and unrestricted grants from local governments.~~

(33)~~(38)~~ "Medical equipment supplier" means an organization which provides medical equipment and supplies used by health care providers and health care facilities in the diagnosis or treatment of disease.

(34)~~(39)~~ "Net revenue" means gross revenue minus deductions from revenue.

(35)~~(40)~~ "New hospital" means a hospital in its initial year of operation as a licensed hospital and does not include any facility which has been in existence as a licensed hospital, regardless of changes in ownership, for over 1 calendar year.

(36)~~(41)~~ "Nursing home" means a facility licensed under s. 400.062 or, for resident level and financial data collection purposes only, any institution licensed under chapter 395 and which has a Medicare or Medicaid certified distinct part used for skilled nursing home care, but does not include a facility licensed under chapter 651.

(37)~~(42)~~ "Operating expenses" means total expenses excluding income taxes.

(38)~~(43)~~ "Other operating revenue" means all revenue generated from hospital operations other than revenue directly associated with patient care.

(39)~~(44)~~ "Physical rehabilitation center" means an organization *that* ~~which~~ employs or contracts with health care professionals licensed under part I or part III of chapter 468 or chapter 486 to provide speech, occupational, or physical therapy services on an outpatient or ambulatory basis.

(40)~~(45)~~ "Prospective payment arrangement" means a financial agreement negotiated between a hospital and an insurer, health maintenance organization, preferred provider organization, or other third-party payer which contains, at a minimum, the elements provided for in s. 408.50.

(41)~~(46)~~ "Rate of return" means the financial indicators used to determine or demonstrate reasonableness of the financial requirements of a hospital. Such indicators shall include, but not be limited to: return on assets, return on equity, total margin, and debt service coverage.

(42)~~(47)~~ "Rural hospital" means an acute care hospital licensed under chapter 395, with 85 licensed beds or fewer, which has an emergency room and is located in an area defined as rural by the United States Census, and which is:

(a) The sole provider within a county with a population density of no greater than 100 persons per square mile;

(b) An acute care hospital, in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from another acute care hospital within the same county; or

(c) A hospital supported by a tax district or subdistrict whose boundaries encompass a population of 100 persons or less per square mile.

(43)~~(48)~~ "Special study" means a nonrecurring data-gathering and analysis effort designed to aid the Agency for Health Care Administration in meeting its responsibilities pursuant to this chapter.

(44)~~(49)~~ "Teaching hospital" means any hospital formally affiliated with an accredited medical school that exhibits activity in the area of medical education as reflected by at least seven different resident physician specialties and the presence of 100 or more resident physicians.

Section 36. Section 408.08, Florida Statutes, is amended to read:

408.08 Inspections and audits; violations; penalties; fines; enforcement.—

(1) The agency may inspect and audit books and records of individual or corporate ownership, including books and records of related organizations with which a health care provider or a health care facility had transactions, for compliance with this chapter. Upon presentation of a written request for inspection to a health care provider or a health care facility by the agency or its staff, the health care provider or the health care facility shall make available to the agency or its staff for inspection, copying, and review all books and records relevant to the determination of whether the health care provider or the health care facility has complied with this chapter.

~~(2) The board shall annually compare the audited actual experience of each hospital to the audited actual experience of that hospital for the previous year.~~

~~(a) For a hospital submitting a budget letter, if the board determines that the audited actual experience of the hospital exceeded its previous year's audited actual experience by more than the maximum allowable rate of increase as certified in the budget letter plus any banked points utilized in the budget letter, the amount of such excess shall be determined by the board and a penalty shall be levied against such hospital pursuant to subsection (3).~~

~~(b) For a hospital subject to budget review, if the board determines that the audited actual experience of the hospital exceeded its previous year's audited actual experience by more than the most recent approved budget or the most recent approved budget as amended, the amount of such excess shall be determined by the board, and a penalty shall be levied against such hospital pursuant to subsection (3).~~

~~(c) For a hospital submitting a budget letter and for a hospital subject to budget review, the board shall annually compare each hospital's audited actual experience for net revenues per adjusted admission to the hospital's audited actual experience for net revenues per adjusted admission for the previous year. If the rate of increase in net revenues per adjusted admission between the previous year and the current year was less than the market basket index, the hospital may carry forward the difference and earn up to a cumulative maximum of 3 banked net revenue percentage points. Such banked net revenue percentage points shall be available to the hospital to offset, in any future year, penalties for exceeding the approved budget or the maximum allowable rate of increase as set forth in subsection (3). Nothing in this paragraph shall be used by a hospital to justify the approval of a budget or a budget amendment by the board in excess of the maximum allowable rate of increase pursuant to s. 408.072.~~

~~(3) Penalties shall be assessed as follows:~~

~~(a) For the first occurrence within a 5-year period, the board shall prospectively reduce the current budget of the hospital by the amount of the excess up to 5 percent; and, if such excess is greater than 5 percent over the maximum allowable rate of increase, any amount in excess of 5 percent shall be levied by the board as a fine against such hospital to be deposited in the Public Medical Assistance Trust Fund.~~

~~(b) For the second occurrence with the 5-year period following the first occurrence as set forth in paragraph (a), the board shall prospectively reduce the current budget of the hospital by the amount of the excess up to 2 percent; and, if such excess is greater than 2 percent over the maximum allowable rate of increase, any amount in excess of 2 percent shall be levied by the board as a fine against such hospital to be deposited in the Public Medical Assistance Trust Fund.~~

~~(c) For the third occurrence within the 5-year period following the first occurrence as set forth in paragraph (a), the board shall:~~

~~1. Levy a fine against the hospital in the total amount of the excess, to be deposited in the Public Medical Assistance Trust Fund.~~

~~2. Notify the agency of the violation, whereupon the agency shall not accept any application for a certificate of need pursuant to ss. 408.031-~~

~~408.045 from or on behalf of such hospital until such time as the hospital has demonstrated to the satisfaction of the board that, following the date the penalty was imposed under subparagraph 1., the hospital has stayed within its projected or amended budget or its applicable maximum allowable rate of increase for a period of at least 1 year. However, this provision does not apply with respect to a certificate of need application filed to satisfy a life or safety code violation.~~

~~3. Upon a determination that the hospital knowingly and willfully generated such excess, notify the agency, whereupon the agency shall initiate disciplinary proceedings to deny, modify, suspend, or revoke the license of such hospital or impose an administrative fine on such hospital not to exceed $20,000.~~

~~The determination of the amount of any such excess shall be based upon net revenues per adjusted admission, excluding funds distributed to the hospital from the Public Medical Assistance Trust Fund. However, in making such determination, the board shall appropriately reduce the amount of the excess by the total amount of the assessment paid by such hospital pursuant to s. 395.701 minus the amount of revenues received by the hospital through the Public Medical Assistance Trust Fund. It is the responsibility of the hospital to demonstrate to the satisfaction of the board its entitlement to such reduction. It is the intent of the Legislature that the Health Care Board, in levying any penalty imposed against a hospital for exceeding its maximum allowable rate of increase or its approved budget pursuant to this subsection, consider the effect of changes in the case mix of the hospital and in the hospital's intensity and severity of illness as measured by changes in the hospital's actual proportion of outlier cases to total cases and dollar increases in outlier cases' average charge per case. It is the responsibility of the hospital to demonstrate to the satisfaction of the board any change in its case mix and in its intensity and severity of illness. For psychiatric hospitals and other hospitals not reimbursed under a prospective payment system by the Federal Government, until a proxy for case mix is available, the board shall also reduce the amount of excess by the change in a hospital's audited actual average length of stay without any thresholds or limitations.~~

~~(4) The following factors may be used by the board to reduce the amount of excess of the hospital as determined pursuant to this section:~~

~~(a) Unforeseen and unforeseeable events which affect the net revenue per adjusted admission and which are beyond the control of the hospital, such as prior year Medicare cost report settlements, retroactive changes in Medicare reimbursement methodology, and increases in malpractice insurance premiums, which occurred in the last 3 months of the hospital fiscal year during which the hospital generated the excess; or~~

~~(b) Imposition of the penalty would have a severe adverse effect which would jeopardize the continued existence of an otherwise economically viable hospital.~~

~~(5) The board shall reduce the amount of the excess for hospitals submitting budget letters pursuant to s. 408.072(3)(a) by the amount of any documented costs from financial assistance provided to expand or supplement the curriculum of a community college, university, or vocational training school for the purpose of training nurses or other health professionals, not including physicians. Financial assistance would include, but not be limited to, the direct costs for faculty salaries and expenses, books, equipment, recruiting efforts, tuition assistance, and hospital internships. The reduction would be based on actual documented expenses increased by the gross revenues necessary to generate net revenues sufficient to cover the expenses.~~

~~(6) If the board finds that any hospital chief executive officer or any person who is in charge of hospital administration or operations has knowingly and willfully allowed or authorized actual operating revenues or expenditures that are in excess of projected operating revenues or expenditures in the hospital's approved budget, the board shall order such officer or person to pay an administrative fine not to exceed $5,000.~~

~~(7) For hospitals filing budget letters, the board shall annually compare the audited actual experience of each hospital for the year under review to the audited actual experience of that hospital for the previous year. For hospitals which submitted detailed budgets or budget amendments, the board shall compare the audited actual experience of each hospital for the year under review to its approved gross revenue per adjusted admission for the year under review, for purposes of levying an administrative fine.~~

~~(a) For a hospital submitting a budget letter pursuant to s. 408.072(3)(a), if the board determines that the audited actual experience for the year under review exceeded the hospital's previous year's audited actual experience by more than the maximum allowable rate of increase as certified in the budget letter plus any banked points utilized in the budget letter, the amount of the excess shall be determined and an administrative fine shall be levied against such hospital pursuant to subsection (8).~~

~~(b) For a hospital which submitted a budget pursuant to s. 408.072(1), or a budget amendment pursuant to s. 408.072(6), if the board determines that the gross revenue per adjusted admission contained in the hospital's audited actual experience exceeded its board-approved gross revenue per adjusted admission, the amount of the excess shall be determined and an administrative fine shall be levied against such hospital pursuant to subsection (8).~~

~~(8) If the board determines that an excess exists pursuant to subsection (7), the board shall multiply the excess by the number of actual adjusted admissions contained in the year at issue to determine the amount of the base fine. The base fine shall be multiplied by the applicable occurrence factor to determine the amount of the administrative fine levied against the hospital.~~

~~(a) For the first occurrence within a 5-year period, the applicable occurrence factor shall be 0.25. For the second occurrence within a 5-year period, the applicable occurrence factor shall be 0.55. For the third occurrence within a 5-year period, the applicable occurrence factor shall be 1.0.~~

~~(b) In no event shall any administrative fine levied pursuant to this subsection exceed $365,000.~~

~~(9) In levying any administrative fine against a hospital pursuant to subsection (8), the board shall consider the effect of any changes in the hospital's case mix, and in the hospital's intensity and severity of illness as measured by changes in the hospital's actual proportion of outlier cases to total cases and dollar increases in outlier cases' average charge per case. The board shall adjust the amount of any excess by the changes in the hospital's case mix and in its intensity and severity of illness, based upon certified hospital patient discharge data provided to the board pursuant to s. 408.061. For psychiatric hospitals and other hospitals not reimbursed under a prospective payment system by the Federal Government, until a proxy for case mix is available, the board shall adjust the amount of any excess by the change in a hospital's audited actual average length of stay without any thresholds or limitation.~~

~~(10) In levying any administrative fine against a hospital pursuant to subsection (8), it is the intent of the Legislature that if a hospital can demonstrate to the satisfaction of the board that it operated within its approved gross revenue per adjusted admission for the first 8 months of its fiscal year and did not increase its prices, except for exceptions determined by the board during the last 5 months of its fiscal year, it shall not be subject to any administrative fine levied pursuant to subsection (8).~~

~~(11) It is the further intent of the Legislature that if a hospital can demonstrate to the satisfaction of the board that it did not increase its prices on average in excess of the MARI for the prior year, it shall not be subject to any administrative fine levied pursuant to subsection (8).~~

~~(12) The board shall submit a report to the Legislature by December 31, 1993, with its recommendations on the need for granting hospitals and professional boards additional authority to control utilization of services, the phasing in of practice parameters pursuant to s. 408.02, and the impact of implementation of this section on gross and net operating revenues.~~

~~(13) If the board finds that any hospital chief executive officer or any person who is in charge of hospital administration or operations has knowingly and willfully allowed or authorized gross revenue per adjusted admission, net revenue per adjusted admission, or rates of increase that are in excess of gross or net revenue per adjusted admission, or rates of increase in the hospital's approved budget, budget amendment, or budget letter, the agency shall order such officer or person to pay an administrative fine not to exceed $5,000.~~

(2)~~(14)~~ Any health care facility that refuses to file a report, fails to timely file a report, files a false report, or files an incomplete report and upon notification fails to timely file a complete report required under ~~this section and~~ s. 408.061; that violates ~~any provision of~~ this section, s. 408.061, or s. 408.20, or rule adopted thereunder; or that fails to provide

documents or records requested by the agency under ~~the provisions of~~ this chapter shall be punished by a fine not exceeding $1,000 per day for each day in violation, to be imposed and collected by the agency.

(3)~~(15)~~ Any health care provider that refuses to file a report, fails to timely file a report, files a false report, or files an incomplete report and upon notification fails to timely file a complete report required under ~~this section and~~ s. 408.061; that violates ~~any provision of~~ this section, s. 408.061, or s. 408.20, or rule adopted thereunder; or that fails to provide documents or records requested by the agency under ~~the provisions of~~ this chapter shall be referred to the appropriate licensing board which shall take appropriate action against the health care provider.

(4)~~(16)~~ *If* ~~In the event that~~ a health insurer does not comply with the requirements of s. 408.061, the agency shall report a health insurer's failure to comply to the Department of Insurance, which shall take into account the failure by the health insurer to comply in conjunction with its approval authority under s. 627.410. The agency shall adopt any rules necessary to carry out its responsibilities required by this subsection.

(5)~~(17)~~ Refusal to file, failure to timely file, or filing false or incomplete reports or other information required to be filed under the provisions of this chapter, failure to pay or failure to timely pay any assessment authorized to be collected by the agency, or violation of any other provision of this chapter or lawfully entered order of the agency or rule adopted under this chapter, shall be punished by a fine not exceeding $1,000 a day for each day in violation, to be fixed, imposed, and collected by the agency. Each day in violation shall be considered a separate offense.

(6)~~(18)~~ Notwithstanding any other provisions of this chapter, when a hospital alleges that a factual determination made by the *agency* ~~board~~ is incorrect, the burden of proof shall be on the hospital to demonstrate that such determination is, in light of the total record, not supported by a preponderance of the evidence. The burden of proof remains with the hospital in all cases involving administrative agency action.

Section 37. Subsections (10) and (14) of section 409.2673, Florida Statutes, are amended to read:

409.2673 Shared county and state health care program for low-income persons; trust fund.—

(10) Under the shared county and state program, reimbursement to a hospital for services for an eligible person must:

(a) Be at a reimbursement rate which is negotiated by the lead agency but which does not exceed the hospital's per diem reimbursement rate in effect at the time of service delivery for the hospital under the medical assistance program for the needy under Title XIX of the Social Security Act, as amended;

(b) Be limited to payment for 12 days of service per admission, not to exceed 45 days of service per county fiscal year;

(c) Be conditioned on participation of the eligible person prior to hospitalization in a case-managed program of primary care and health care services which is coordinated by the lead agency or referral of the eligible person immediately subsequent to discharge from the hospital to the lead agency's case-managed services. For purposes of this program, case-managed programs of primary care and other health care services are those operated by:

1. A state-funded county public health unit, a county public health unit primary care program, or a contractor whose primary care program is funded through a county public health unit;

2. A county-operated primary care program or a contractor whose primary care program is funded by or through a county governing authority;

3. A federally funded community or migrant primary health care center; or

4. A private physician or group of physicians who agree to work with the lead agency and other providers of primary care within the county in providing services to individuals enrolled in a countywide program of primary care;

(d) Be conditioned, for public hospitals and hospital districts that deliver services as part of this program, on a commitment not to reduce the percentage of the hospital's ad valorem tax dollars being devoted to health care for low-income persons if any of these funds were previously utilized for the provision of health care services to those persons made eligible for the shared county and state program. It is the intent of the Legislature that, as a result of the shared county and state program, funds that were previously utilized for the provision of health care services to persons made eligible by the program be used by public hospitals and hospital districts to expand their health care program capabilities for low-income persons; and

(e) Be conditioned, for tax district hospitals that deliver services as part of this program, on the delivery of charity care, as defined in the rules of the *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~, which equals a minimum of 2.5 percent of the tax district hospital's net revenues; however, those tax district hospitals which by virtue of the population within the geographic boundaries of the tax district can not feasibly provide this level of charity care shall assure an "open door" policy to those residents of the geographic boundaries of the tax district who would otherwise be considered charity cases.

(14) Any dispute among a county, the *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~, the department, or a participating hospital shall be resolved by order as provided in chapter 120. Hearings held under this subsection shall be conducted in the same manner as provided in s. 120.57, except that the hearing officer's order constitutes final agency action. Cases filed under chapter 120 may combine all relevant disputes between parties.

Section 38. Section 409.9113, Florida Statutes, is amended to read:

409.9113 Disproportionate share program for teaching hospitals.—In addition to the payments made under ss. 409.911 and 409.9112, the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ shall make disproportionate share payments to statutorily defined teaching hospitals for their increased costs associated with medical education programs and for tertiary health care services provided to the indigent. This system of payments shall conform with federal requirements and shall distribute funds in each fiscal year for which an appropriation is made by making quarterly Medicaid payments. Notwithstanding ~~the provisions of~~ s. 409.915, counties are exempt from contributing toward the cost of this special reimbursement for hospitals serving a disproportionate share of low-income patients.

(1) On or before September 15 of each year, the agency ~~for Health Care Administration~~ shall calculate an allocation fraction to be used for distributing funds to state statutory teaching hospitals. Subsequent to the end of each quarter of the state fiscal year, the *agency* ~~department~~ shall distribute to each statutory teaching hospital, as defined in s. 408.07, an amount determined by multiplying one-fourth of the funds appropriated for this purpose by the Legislature times such hospital's allocation fraction. The allocation fraction for each such hospital shall be determined by the sum of three primary factors, divided by three. The primary factors are:

(a) The number of nationally accredited graduate medical education programs offered by the hospital, including programs accredited by the Accreditation Council for Graduate Medical Education and the combined Internal Medicine and Pediatrics programs acceptable to both the American Board of Internal Medicine and the American Board of Pediatrics at the beginning of the state fiscal year preceding the date on which the allocation fraction is calculated. The numerical value of this factor is the fraction that the hospital represents of the total number of programs, where the total is computed for all state statutory teaching hospitals.

(b) The number of full-time equivalent trainees in the hospital, which comprises two components:

1. The number of trainees enrolled in nationally accredited graduate medical education programs, as defined in paragraph (a). Full-time equivalents are computed using the fraction of the year during which each trainee is primarily assigned to the given institution, over the state fiscal year preceding the date on which the allocation fraction is calculated. The numerical value of this factor is the fraction that the hospital represents of the total number of full-time equivalent trainees enrolled in accredited graduate programs, where the total is computed for all state statutory teaching hospitals.

2. The number of medical students enrolled in accredited colleges of medicine and engaged in clinical activities, including required clinical clerkships and clinical electives. Full-time equivalents are computed using the fraction of the year during which each trainee is primarily assigned to the given institution, over the course of the state fiscal year

preceding the date on which the allocation fraction is calculated. The numerical value of this factor is the fraction that the given hospital represents of the total number of full-time equivalent students enrolled in accredited colleges of medicine, where the total is computed for all state statutory teaching hospitals.

The primary factor for full-time equivalent trainees is computed as the sum of these two components, divided by two.

(c) A service index *that* ~~which~~ comprises three components:

1. The *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~ Service Index, computed by applying the standard Service Inventory Scores established by the *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~ to services offered by the given hospital, as reported on ~~the Health Care Cost Containment Board~~ Worksheet A-2 for the last fiscal year reported to the *agency* ~~board~~ before the date on which the allocation fraction is calculated. The numerical value of this factor is the fraction that the given hospital represents of the total *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~ Service Index values, where the total is computed for all state statutory teaching hospitals.

2. A volume-weighted service index, computed by applying the standard Service Inventory Scores established by the *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~ to the volume of each service, expressed in terms of the standard units of measure reported on ~~the Health Care Cost Containment Board~~ Worksheet A-2 for the last fiscal year reported to the *agency* ~~board~~ before the date on which the allocation factor is calculated. The numerical value of this factor is the fraction that the given hospital represents of the total volume-weighted service index values, where the total is computed for all state statutory teaching hospitals.

3. Total Medicaid payments to each hospital for direct inpatient and outpatient services during the fiscal year preceding the date on which the allocation factor is calculated. This includes payments made to each hospital for such services by Medicaid prepaid health plans, whether the plan was administered by the hospital or not. The numerical value of this factor is the fraction that each hospital represents of the total of such Medicaid payments, where the total is computed for all state statutory teaching hospitals.

The primary factor for the service index is computed as the sum of these three components, divided by three.

(2) *By October 1 of each year, the agency shall use* the following formula ~~shall be utilized by the department~~ to calculate the maximum additional disproportionate share payment for statutorily defined teaching hospitals:

$$TAP = THAF \times A$$

Where:

TAP = total additional payment.

THAF = teaching hospital allocation factor.

A = amount appropriated for a teaching hospital disproportionate share program.

~~(3) The Health Care Cost Containment Board shall report to the department the statutory teaching hospital allocation fraction prior to October 1 of each year.~~

Section 39. Paragraph (c) of subsection (12) of section 440.13, Florida Statutes, 1994 Supplement, is amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(c) Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the uniform schedule of maximum reimbursement allowances as determined by the panel or as otherwise provided in this section. This subsection also applies to independent medical examinations performed by health care providers under this chapter. Until the three-member panel approves a uniform schedule of maximum reimbursement allowances and it becomes effective, all compensable charges for treatment, care, and attendance provided by physicians, ambulatory surgical centers, work-hardening programs, or pain programs shall be reimbursed at the lowest maximum reimbursement allowance across all 1992 schedules of maximum reimbursement allowances for the services provided regardless of the place of service. In determining the uniform schedule, the panel shall first approve the data which it finds representative of prevailing charges in the state for similar treatment, care, and attendance of injured persons. Each health care provider, health care facility, ambulatory surgical center, work-hardening program, or pain program receiving workers' compensation payments shall maintain records verifying their usual charges. In establishing the uniform schedule of maximum reimbursement allowances, the panel must consider:

1. The levels of reimbursement for similar treatment, care, and attendance made by other health care programs or third-party providers;

2. The impact upon cost to employers for providing a level of reimbursement for treatment, care, and attendance which will ensure the availability of treatment, care, and attendance required by injured workers; *and*

3. The financial impact of the reimbursement allowances upon health care providers and health care facilities, including trauma centers as defined in s. 395.401, and its effect upon their ability to make available to injured workers such medically necessary remedial treatment, care, and attendance. The uniform schedule of maximum reimbursement allowances must be reasonable, must promote health care cost containment and efficiency with respect to the workers' compensation health care delivery system, and must be sufficient to ensure availability of such medically necessary remedial treatment, care, and attendance to injured workers.~~; and~~

~~4. The most recent average maximum allowable rate of increase for hospitals determined by the Health Care Board under chapter 408.~~

Section 40. Paragraph (d) of subsection (1) of section 395.1055, Florida Statutes, 1994 Supplement, is amended to read:

395.1055 Rules and enforcement.—

(1) The agency shall adopt, amend, promulgate, and enforce rules to implement the provisions of this part, which shall include reasonable and fair minimum standards for ensuring that:

(d) Facilities are structurally capable of serving as shelters *only for patients, staff, and staff families* and equipped to be self-supporting during and immediately following disasters. *This requirement shall apply after July 1, 1995, to the construction of new facilities and to the addition of a new wing or floor to existing facilities. No other renovations to existing facilities shall be required to meet this requirement prior to July 1, 1996. The agency shall work with impacted parties and report to the Governor and the Legislature by March 1, 1996, regarding its recommendations for cost-effective renovation standards that should be applied to existing facilities.*

Section 41. Subsection (9) of section 395.403, Florida Statutes; subsection (3) of section 395.806, Florida Statutes, as created by section 3 of chapter 94-182, Laws of Florida; sections 408.003, 408.072, and 408.085, Florida Statutes; and paragraph (g) of subsection (3) of section 455.236, Florida Statutes, as amended by section 89 of chapter 94-218, Laws of Florida, are repealed.

Section 42. The repeal of hospital budget review and penalties contained in section 36 of this act shall be effective for hospital budgets for fiscal years that end in calendar year 1994 and thereafter.

Section 43. Section 409.9115, Florida Statutes, is amended to read:

409.9115 Disproportionate share program for mental health hospitals.—The *agency* ~~Department of Health and Rehabilitative Services~~ shall design and implement a system of making mental health disproportionate share payments to hospitals that qualify for disproportionate share payments under s. 409.911. This system of payments shall conform with federal requirements and shall distribute funds in each fiscal year for which an appropriation is made by making quarterly Medicaid payments. Notwithstanding s. 409.915, counties are exempt from contributing toward the cost of this special reimbursement for patients.

(1) The following formula shall be used by the *agency* ~~department~~ to calculate the total amount earned for hospitals that participate in the mental health disproportionate share program:

$$TAP = \left(\frac{DSH}{TDSH}\right) \times TA$$

Where:

TAP = total additional payment for a mental health hospital.

DSH = total amount earned by a mental health hospital under s. 409.911.

TDSH = sum of total amount earned by each hospital that participates in the mental health hospital disproportionate share program.

TA = total appropriation for the mental health hospital disproportionate share program.

(2) In order to receive payments under this section, a hospital must participate in the Florida Title XIX program and must:

(a) Agree to serve all individuals referred by the Department *of Health and Rehabilitative Services* who require inpatient psychiatric services, regardless of ability to pay.

(b) Be certified or certifiable to be a provider of Title XVIII services.

(c) Receive all of its inpatient clients from admissions governed by the Baker Act as specified in chapter 394.

Section 44. Section 409.9118, Florida Statutes, is created to read:

409.9118 Requirements for providing emergency services and care.—In providing for emergency services and care as a covered service, an entity with which the agency contracts on a prepaid or fixed-sum basis under s. 409.912 is governed by the following:

(1) The entity may not require prior authorization for the receipt of prehospital transport or treatment or emergency services and care, nor indicate that emergencies are not covered unless care is secured within a certain period of time, nor deny payment based on the beneficiary's failure to notify the entity in advance or within a certain period of time after the care is given.

(2) Emergency services and care to a person receiving the services of an entity shall be provided pursuant to ss. 395.1041 and 401.45. Trauma services and care shall be provided pursuant to ss. 395.401-395.405.

(3)(a) When a person receiving the services of an entity is present at a hospital seeking emergency services and care, the determination of whether an emergency medical condition exists shall be made by a physician of a hospital, or, to the extent permitted by applicable law, by appropriate licensed professional hospital personnel under the supervision of the hospital physician. An amount equal to the lowest medical consultation fee paid to a physician by the Medicaid program is to be paid to the physician by the entity for this triage review and a fee equal to this amount is to be paid to the hospital by the entity.

(b)1. If it has been determined through triage that an emergency medical condition exists, necessary emergency services and care must be rendered and payment for such services will be the lesser of the provider's charge, the usual and customary provider charge for similar services in the community where the services were provided, the charge negotiated between the entity and the provider within 30 days of submittal of the claim, or the Medicaid rate.

2. If it has been determined through triage that an emergency medical condition does not exist, then reimbursement by an entity for emergency services and care provided beyond that point may be limited pursuant to contract.

(4) An entity may not use terms such as "life-threatening" or "bona fide" to qualify the type of emergency which is covered.

Section 45. Section 409.912, Florida Statutes, 1994 Supplement, is amended to read:

409.912 Cost-effective purchasing of health care.—The *agency* ~~department~~ shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The *agency* ~~department~~ shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies designed to facilitate the cost-effective purchase of a case-managed continuum of care. The *agency* ~~department~~ shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(1) The *agency* ~~department~~ may enter into agreements with appropriate agents of other state agencies or of any agency of the Federal Government and accept such duties in respect to social welfare or public aid as ~~may be~~ necessary to implement ~~the provisions of~~ Title XIX of the Social Security Act and ss. 409.901-409.920.

(2) The *agency* ~~department~~ may contract with health maintenance organizations certified pursuant to part I of chapter 641 for the provision of services to recipients.

(3) The *agency* ~~department~~ may contract with *any entity which provides no prepaid health care services other than Medicaid services under contract with the agency and which is owned by a federally qualified health center, by other migrant and community health centers receiving non-Medicaid financial support from the federal government, by a county or county public health unit, or by a public hospital; with an entity providing comprehensive inpatient and outpatient mental health care services to certain Medicaid recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk counties, through a capitated, pre-paid arrangement pursuant to the federal waiver provided for by s. 409.905(5); with other entities operating Medicaid prepaid mental health and substance abuse plans authorized pursuant to subsequent federal waivers; with* county public health units*;* and *with* other entities authorized by chapter 154 to provide health care services on a prepaid or fixed-sum basis to recipients, which entities may provide such prepaid services either directly or through arrangements with other providers. Such prepaid health care services are exempt from ~~the provisions of~~ part I of chapter 641 *except for the provisions of s. 641.28.*

(4) The *agency* ~~department~~ may contract with any public or private entity on a prepaid or fixed-sum basis for the provision of health care services to recipients *and for the provision of prepaid mental health care for those who exhibit symptoms of acute or chronic mental illness, alcohol abuse, or drug abuse or children who are severely emotionally disturbed or in the state's custody.*

(a) An entity may provide prepaid services to recipients, either directly or through arrangements with other entities, if each entity involved in providing services:

1. Is organized primarily for the purpose of providing health care or other services of the type regularly offered to Medicaid recipients;

2. Ensures that services meet the standards set by the *agency* ~~department~~ for quality, appropriateness, and timeliness;

3. Makes provisions satisfactory to the *agency* ~~department~~ for insolvency protection and ensures that neither enrolled Medicaid recipients nor the *agency* ~~department~~ will be liable for the debts of the entity;

4. Submits to the *agency* ~~department~~, if a private entity, a financial plan that the *agency* ~~department~~ finds to be fiscally sound and that provides for working capital in the form of cash or equivalent liquid assets excluding revenues from Medicaid premium payments equal to at least the first 3 months of operating expenses or $200,000, whichever is greater;

5. Furnishes evidence satisfactory to the *agency* ~~department~~ of adequate liability insurance coverage or an adequate plan of self-insurance to respond to claims for injuries arising out of the furnishing of health care;

6. Provides, through contract or otherwise, for periodic review of its medical facilities and services, as required by the *agency* ~~department~~; and

7. Provides organizational, operational, financial, and other information required by the *agency* ~~department~~.

(b) Entities *with which the agency has signed a* ~~that provide no~~ prepaid health care ~~services other than Medicaid services under~~ contract *by July 1, 1995, regardless of Health Care Financing Administration approval, must receive a certificate of authority from the Department of Insurance under* ~~with the department are exempt from the provisions~~

~~of~~ part I of chapter 641 *by January 1, 1997, or within 3 years after the effective date of the entity's initial contract, whichever is earlier. After July 1, 1995, any Medicaid prepaid health plan contractor must have a Department of Insurance certificate of authority before it can qualify for approval as a prepaid health plan, unless the plan will provide services in a county that has two or fewer existing Medicaid prepaid health plans, in which case the plan must receive a Department of Insurance certificate of authority by July 1, 1997. Such a plan may provide services in any county within its service area after initiating services in a county with two or fewer plans. These provisions do not in any way affect the requirements of the federal composition of enrollment waiver period. Upon receiving a certificate of authority from the Department of Insurance, the entity must apply for, and subsequently receive, accreditation.*

(c)1. Entities that provide no prepaid health care services other than Medicaid services under contract with the agency are exempt from the provisions of part I of chapter 641 if, before July 1, 1994, they filed a substantially complete application for a Medicaid prepaid health care service contract, provided that the plan submitted will serve counties or populations presently underserved by prepaid health care plans.

2. The agency shall submit any completed application meeting the criteria specified in subparagraph 1. to the U.S. Health Care Financing Administration by August 1, 1995. These provisions do not in any way affect the requirements of the Federal Composition of Enrollment waiver period.

3. This paragraph expires July 1, 1997.

(5) The *agency* ~~department~~ may contract on a prepaid or fixed-sum basis with any health insurer that:

(a) Pays for health care services provided to enrolled Medicaid recipients in exchange for a premium payment paid by the *agency* ~~department~~;

(b) Assumes the underwriting risk; and

(c) Is organized and licensed under applicable provisions of the Florida Insurance Code and is currently in good standing with the Department of Insurance.

(6) The *agency* ~~department~~ shall not contract on a prepaid or fixed-sum basis for Medicaid services with an entity *that* ~~which~~ knows or reasonably should know that any officer, director, agent, managing employee, or owner of stock or beneficial interest in excess of 5 percent common or preferred stock, or the entity itself, has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere, or guilty, to:

(a) Fraud;

(b) Violation of federal or state antitrust statutes, including those prescribing price fixing between competitors and the allocation of customers among competitors;

(c) Commission of a felony involving embezzlement, theft, forgery, income tax evasion, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, or obstruction of justice; or

(d) Any crime in any jurisdiction which directly relates to the provision of health services on a prepaid or fixed-sum basis.

(7) The *agency* ~~department~~ may apply for waivers of applicable federal laws and regulations as necessary to implement more appropriate systems of health care for Medicaid recipients and reduce the cost of the Medicaid program to the state and federal governments and shall implement such programs, after legislative approval, within a reasonable period of time after federal approval. These programs must be designed primarily to reduce the need for inpatient care, custodial care and other long-term or institutional care, and other high-cost services.

(8) The *agency* ~~department~~ shall establish a postpayment utilization control program designed to identify recipients who may inappropriately overuse or underuse Medicaid services and shall provide methods to correct such misuse.

(9) The *agency* ~~department~~ shall develop and provide coordinated systems of care for Medicaid recipients and may contract with public or private entities to develop and administer such systems of care among public and private health care providers in a given geographic area.

(10) The *agency* ~~department~~ shall operate or contract for the operation of utilization management and incentive systems designed to encourage *the* cost-effective use *of* services.

(11) The *agency* ~~department~~ shall identify health care utilization and price patterns within the Medicaid program *which* ~~that~~ are not cost-effective or medically appropriate and assess the effectiveness of new or alternate methods of providing and monitoring service, and may implement such methods as it considers appropriate.

(12) An entity contracting on a prepaid or fixed-sum basis shall, in addition to meeting any applicable statutory surplus requirements, also maintain at all times in the form of cash, short-term investments allowable as admitted assets by the Department of Insurance, and restricted funds or deposits controlled by the *agency* ~~department~~ or the Department of Insurance~~, by January 1, 1992, an amount equal to its monthly prepaid Medicaid revenues; and by and after January 1, 1993,~~ an amount equal to one-and-one-half times its monthly prepaid Medicaid revenues. *If* ~~In the event~~ an entity's surplus falls below any applicable statutory requirements, or an entity's total of cash, short-term investments allowable as admitted assets by the Department of Insurance, and restricted funds or deposits controlled by the *agency* ~~department~~ or the Department of Insurance, falls below one-and-one-half times its monthly prepaid Medicaid revenues, the *agency* ~~department~~ shall prohibit the entity from engaging in enrollment activities, shall cease to process new enrollments for the entity, and *may* ~~shall~~ not renew the entity's contract until the required balance is achieved. The requirements of this subsection *do* ~~shall~~ not apply *if*:

(a) *The* ~~Where a~~ public entity agrees to fund any deficit incurred by the contracting entity; or

(b) ~~Where~~ The entity's performance and obligations are guaranteed in writing by a ~~nonprofit~~ guaranteeing organization *that* ~~which~~:

1. Has been in operation for at least 5 years and has assets in excess of $50 million; or

2. Submits a written guarantee acceptable to the *agency* ~~department~~ which is irrevocable during the term of the contracting entity's contract with the *agency* ~~department~~ and, upon termination of the contract, until the *agency* ~~department~~ receives proof of satisfaction of all outstanding obligations incurred under the contract.

(13) The agency ~~for Health Care Administration~~ shall, by rule, develop a process whereby a Medicaid prepaid plan enrollee who wishes to enter hospice care may be disenrolled from the prepaid plan within 24 hours after contacting the agency regarding such request. The agency rule *must* ~~shall~~ include a methodology for the agency to recoup prepaid plan payments on a pro rata basis if payment has been made for the enrollment month when disenrollment occurs.

(14) Each entity that contracts with the agency on a prepaid or fixed-sum basis for the provision of Medicaid services shall reimburse any hospital or physician that is outside the entity's authorized service area as specified in its contract with the agency, and that provides services authorized by the entity to Medicaid recipients, at the least of the following amounts:

(a) The usual charges made to the public by the hospital or physician;

(b) The Medicaid per diem rate or reimbursement rate established for the hospital or physician service; or

(c) A rate negotiated with the hospital or physician before the services are provided.

(15) The agency shall establish a health care quality-improvement system appropriate for MediPass providers and those entities contracting with the agency under subsection (3) or subsection (4) which incorporates all the standards and guidelines developed by the Medicaid Bureau of the federal Health Care Financing Administration as a part of the Quality Assurance Reform Initiative. The system must include, but is not limited to:

(a) Guidelines for internal quality-assurance programs including standards for:

1. Written quality-assurance program descriptions.

2. Responsibilities of the governing body for monitoring, evaluating, and making improvements in care.

3. An active quality-assurance committee.

4. Quality-assurance program supervision.

5. Requiring the program to have adequate resources to effectively carry out its specified activities.

6. Provider participation in the quality-assurance program.

7. Delegation of quality-assurance program activities.

8. Credentialing and recredentialing of providers.

9. Enrollee rights and responsibilities.

10. Availability of and accessibility to services and care.

11. Ambulatory care facilities.

12. Accessibility to and availability of medical records, as well as proper recordkeeping and a process for record review.

13. Utilization review of all services offered.

14. A continuity-of-care system.

15. Quality-assurance program documentation.

16. Coordination of quality-assurance activities with other management activities.

17. Delivering care to pregnant women and infants; elderly and disabled recipients, especially those who are at risk of institutional placement; persons with developmental disabilities; and adults who have chronic, high-cost medical conditions. These patient care standards for delivery of health care must be developed by the agency by January 1, 1996.

(b) Guidelines that require the entities to conduct quality-of-care reviews that:

1. Target specific conditions and specific health service delivery issues for focused monitoring and evaluation;

2. Use clinical care standards or practice guidelines to objectively evaluate the care the entity delivers or fails to deliver for the targeted clinical conditions and health services delivery issues; and

3. Use quality indicators derived from the clinical care standards or practice guidelines to screen and monitor care and services delivered.

(c) Guidelines for external quality-review of each contractor which require focused reviews of patterns of care, individual-care review in specific situations, and follow-up activities on previous pattern-of-care review findings and individual-care review findings. In designing the external quality-review function and determining how it is to operate as part of the state's overall quality-improvement system, the agency must construct its external quality-review organization contracts to address:

1. Delineation of the role of the external quality-review organization;

2. Length of the external quality-review organization contract with the state;

3. Participation of the entities in designing external quality-review organization review activities;

4. Potential variation in the type of clinical conditions and health services delivery issues to be reviewed at each plan and for the MediPass program;

5. Determination of the number of focused pattern-of-care reviews to be conducted for each plan and for the MediPass program;

6. Methods for implementing focused reviews;

7. Individual-care review; and

8. Followup activities.

(16) The agency shall establish an enhanced managed-care quality-assurance-oversight function to include at least the following components:

(a) At least quarterly analysis and followup, including sanctions as appropriate, of managed-care participants' utilizations of services.

(b) At least quarterly analysis and followup, including sanctions as appropriate, of quality findings of the Medicaid peer review organization and other external quality-assurance programs.

(c) At least quarterly analysis and followup, including sanctions as appropriate, of the fiscal viability of managed-care plans.

(d) At least quarterly analysis and followup, including sanctions as appropriate, of prepaid health plan participant satisfaction and cancellation surveys.

(17)(a) The agency shall require the Medicaid prepaid health plan provider to attempt to contact all new members, at least twice if necessary, in order to perform a health risk-assessment. The health risk-assessment instrument must include questions regarding the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) screening history of members under 21 years of age and questions regarding pregnancy history. The prepaid health plan must attempt to achieve an 80-percent EPSDT screening rate for those members continuously enrolled for at least 8 months. The prepaid health plan shall request members to release medical records to the plan or its providers from providers who treated the members before their enrollment in the plan. The prepaid health plan must use the health risk-assessments and the released medical records to identify members who have not received screenings in the past according to the agency-approved periodic schedule. The prepaid health plan must contact, up to twice if necessary, any member who is more than 2 months behind in the periodic screening schedule to urge that member or the member's responsible party to make an appointment for a screening visit. The agency shall require the prepaid health plan to report their EPSDT screening rates, the trimester of pregnancy when prenatal care began, and the rate of low-birth-weight babies born to plan members. The agency shall monitor the prepaid health plan's compliance with this section.

(b) The agency shall require the MediPass provider to attempt to contact all new MediPass recipients at least twice if necessary, to perform a health risk-assessment. The health risk-assessment instrument must include questions regarding the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) screening history of recipients under 21 years of age and questions regarding pregnancy history. The MediPass provider shall request medical records from known primary care providers who treated MediPass recipients before enrollment with the current MediPass provider. The MediPass provider must use the health risk-assessments and the released medical records to identify MediPass recipients who have not received screenings in the past according to the agency-approved periodic schedule. The MediPass provider must contact, up to twice if necessary, any recipient whose address is known, who is more than 2 months behind in the periodic screening schedule to urge that recipient or the recipient's responsible party make an appointment for a screening visit. The agency shall require MediPass providers to report their EPSDT screening rates. The agency shall require MediPass providers, who manage maternity related services, to report the trimester of pregnancy when prenatal care began and the rate of low-birth-weight babies born to MediPass recipients. The agency shall monitor the MediPass provider's compliance with this paragraph.

(18) All infants receiving health care through a MediPass provider or all infants born to mothers receiving health care through an entity contracting with the agency under subsections (1)-(5) must be given, and documentation in the medical record must indicate that they were given, the following:

(a) Healthy Start infant screening.

(b) Healthy Start care coordination.

(c) Healthy Start enhanced services in accordance with the infant screening results.

(d) Immunizations in accordance with standards set by the Centers for Disease Control and Prevention and the American Academy of Pediatrics.

(19) All pregnant women receiving prenatal care through a MediPass provider or through an entity contracting with the agency under subsections (1)-(5) must be given, and documentation in the medical record must indicate that they were given, the following:

(a) Healthy Start prenatal screen.

(b) Healthy Start care coordination.

(c) Healthy Start enhanced services in accordance with the prenatal screening results.

(d) Referral to the Special Supplemental Food Program for Women, Infants, and Children.

(e) Counseling and services for voluntary sterilization to all women and their partners unless the provider or facility is philosophically opposed to such services.

(f) A scheduled postpartum visit for the purpose of voluntary family planning to include discussion of risks and benefits of all methods of contraception.

(20) The medical director or chief of the medical staff of a prepaid health plan must be licensed under chapter 458 or chapter 459.

(21) A MediPass provider or an entity contracting with the agency under subsections (1)-(5) may not grant or offer any monetary or other valuable consideration to a Medicaid recipient for enrollment with the entity or selection of the provider. This subsection does not prohibit an entity or provider from offering compliance incentives to a Medicaid recipient.

(22) Any entity contracting with the agency under subsections (1)-(5) to provide health care services to Medicaid recipients is prohibited from engaging in any of the following practices or activities:

(a) Discriminatory practices that attempt to discourage participation on the basis of actual or perceived health status. An entity may not refuse to provide services or care to a recipient solely because medical services may be or have been sought for injuries resulting from an assault, battery, sexual assault, sexual battery, or any other offense of a family or household member, as defined in s. 741.28(2), or by another who is or was residing in the same dwelling unit. A person injured by a violation of this paragraph may bring an action for civil damages and reasonable attorney's fees.

(b) Activities that could mislead or confuse recipients or that misrepresent the organization, its marketing representatives, or the agency. Violations of this paragraph are:

1. False or misleading claims that marketing representatives are employees or representatives of the state, county, or any entity other than the entity or the organization by whom they are reimbursed.

2. False or misleading claims that the entity is recommended or endorsed by any state or county agency or by any other organization that has not certified its endorsement in writing to the entity.

3. False or misleading claims that the state or county recommends that a Medicaid recipient enroll with an entity.

4. Claims that a Medicaid recipient will, by declining to enroll with the entity, lose Medicaid benefits or any other health or welfare benefits to which the recipient is legally entitled.

(c) Granting or offering any monetary or other valuable consideration for enrollment.

(23) A prepaid health plan or MediPass provider may not use or distribute marketing materials used to solicit Medicaid recipients, unless such materials have been approved by the agency. The provisions of this subsection do not apply to general advertising and marketing materials used through mass media.

(24) A state agency may prohibit or limit prepaid-health-plan solicitation in state government buildings. The entity responsible for the building must establish rules under which the marketing is to occur. Such rules must not be restrictive and must allow the prepaid health plans to perform their marketing functions in an orderly manner. Marketing may be conducted only at such locations during normal business hours.

(25) For those Medicaid recipients enrolled through door-to-door solicitations, an attempt must be made by the prepaid health plan to contact the enrolled recipient so that the recipient understands the benefits and restrictions of the plan in which the recipient enrolled. When contacted by the plan with these details, the enrollee must be notified that he is allowed to disavow such enrollment and to disenroll within 10 days.

(26) The agency shall require all entities under contract with the agency to ensure that appropriate foreign-language versions of all marketing materials are developed and available to members and potential members. These foreign-language materials must also be approved by the agency. A foreign-language version of materials is required for each foreign language that is spoken by more than 10 percent of the population of the county. A written translation of the contract must be provided to foreign-language-speaking enrollees.

(27) The agency may impose a fine for each violation of this section by a person or entity that is exempt from the provisions of chapter 641 and that is under contract with the agency. The amount of the fine may not exceed $20,000 for each violation of this section.

(28) Each Medicaid recipient who signs an enrollment form with a health maintenance organization, or who signs an enrollment form with a person or entity that is exempt from chapter 641 and is under contract with the agency for the provision of health care services, shall have 10 days to disavow such agreement. Any Medicaid recipient who under this subsection disavows enrollment with a person or entity must be immediately disenrolled, and all revenue paid by the state for the current month's enrollment must be immediately refunded to the state by the person or entity.

(29) Any person conducting prepaid health plan enrollment activities must be an agent licensed under the Florida Insurance Code. Any entity exempt under this act from the provisions of part I of chapter 641 must, beginning July 1, 1995, be subject to s. 641.386 requiring the use and appointment of licensed health insurance agents in the solicitation of contracts, the procurement of applications, and such other activities required by that section. The Department of Insurance must allow a licensed health insurance agent to be appointed by a person or entity that is exempt pursuant to this act.

(30) The agency shall publish and make available to Medicaid recipients a toll-free telephone number for the purpose of handling consumer complaints. The agency shall maintain a statewide database of Medicaid recipient complaints.

(31) The agency shall make available to prepaid health plan enrollees and MediPass patients the services of the statewide provider and subscriber assistance panel under s. 408.7056.

(32)(a) Every prepaid health plan shall have an enrollee grievance procedure, which is detailed in the handbook provided to enrollees. The grievance procedure must establish methods for classifying emergency, urgent, and routine grievances and must establish standard time frames within which each such grievance must be resolved. The prepaid health plan must notify enrollees that they may submit their grievances to the statewide subscriber and provider assistance panel under s. 408.7056.

(b) Each prepaid health plan's grievance procedure, as required under paragraph (a), must include, at a minimum:

1. A procedure for addressing an enrollee's quality-of-care grievances which is separate from the procedure for addressing complaints and grievances that relate to payments, reimbursements, or contracts. A provider or enrollee who submits a quality-of-care grievance shall be notified that he may contact the agency's toll-free telephone hotline for assistance in resolving the quality-of-care grievance.

2. An explanation that a complaint or grievance must be in writing and a description of the procedure for resolving a complaint or grievance.

3. The name of the appropriate grievance coordinator or a listing of grievance coordinators who are responsible for implementing the prepaid health plan's grievance process. The listing must include the address of each grievance coordinator, the address for the agency's office that is responsible for enforcing this subsection, and the address of the statewide subscriber and provider assistance panel.

4. A listing of the telephone numbers that an enrollee may call to present a complaint, pursue a grievance inquiry, or contact a grievance coordinator. Each number must be toll-free within the enrollee's geographic area. The prepaid health plan must ensure an adequate number of telephone lines, based on its projected number of enrollees, to handle incoming complaints and grievance inquiries.

5. The agency's toll-free telephone hotline number.

6. The telephone number for the statewide subscriber and provider assistance panel.

7. The telephone number for local community resources that provide subscriber assistance, when available.

(c) Each prepaid health plan must initiate action to resolve a complaint or grievance that involved an emergency medical condition within 3 hours after receipt and initiate action to resolve all urgent grievances within 2 days after receipt and initiate action to resolve all routine grievances within 5 days after receipt, unless the provider or enrollee and the prepaid health plan mutually agree to extend the timeframe. However, the prepaid health plan must make an initial determination on resolving the complaint or grievance within 20 days after its receipt and final resolution within 10 days after receipt of a request for reconsideration by the enrollee.

(d) A provider or enrollee may, simultaneously with submitting a grievance to the prepaid health plan, submit a copy to the agency and the statewide subscriber and provider assistance panel for consideration within the timeframes provided in paragraph (c).

(e) Each prepaid health plan shall provide the agency with a copy of the final-decision letter, which must detail the prepaid health plan's resolution of the grievance and the basis for its decision.

(f) Each prepaid health plan shall notify the provider or enrollee in its final-decision letter that if the grievance is not resolved to the satisfaction of the enrollee, the grievance may be appealed to the statewide subscriber and provider assistance panel for consideration within 30 days.

(g) The agency shall coordinate with local community resources to assist in resolving enrollee complaints and grievances and to assist the enrollee in understanding the grievance and appeal process.

(33) The agency shall conduct regular and ongoing Medicaid recipient satisfaction surveys.

(34) As part of the agency's review of prepaid health plan applications, the agency shall request that the Department of Insurance conduct an investigation under s. 641.22(6) of any individual with management, ownership, or controlling interest in the applicant entity or in any officer or director of the applicant entity. The Department of Insurance must notify the agency as to whether any such person meets Department of Insurance approval under s. 641.22(6). The agency may not contract with any applicant entity whose principals have not received approval from the Department of Insurance.

(35) The agency shall annually publish a report identifying fines levied, penalties imposed, and disciplinary actions taken against any prepaid health plan provider or MediPass provider under s. 409.913.

(36) The agency must ensure that individuals applying for Medicaid eligibility are counseled, during the eligibility-determination process, about the availability of Medicaid services through prepaid health plans, the MediPass program, or fee-for-service providers. Each applicant must be given a written copy of the following statement: "Once you are determined eligible for Medicaid, you may enroll in a prepaid health plan or select a MediPass primary care provider. After you select a prepaid health plan or MediPass primary care provider, you will be required to receive all medical care from, or be referred for care by, the provider you have selected. You will not lose your Medicaid eligibility if you fail to select a prepaid health plan or MediPass primary-care provider."

(37) The agency may contract with a nonprofit private organization whose membership includes Medicaid prepaid health plans and may adopt rules for entering into such contracts. Under the terms of the contract, the private organization will monitor prepaid health plan marketing activities, report any violations to the agency, and recommend disciplinary actions. Upon receipt of reports, from the organization, of marketing violations, the agency must determine what disciplinary action should be taken, if any.

Section 46. Paragraph (a) of subsection (1) of section 409.9122, Florida Statutes, is amended, and subsections (6), (7), (8), (9), and (10) are added to that section, to read:

409.9122 Mandatory Medicaid managed care enrollment.—

(1)(a) The agency is directed to contract for an independent comprehensive evaluation of the primary care case management program ~~in districts 5 and 6,~~ known as MediPass~~,~~ and *to* report the findings to the Legislature on or before *December 1, 1995* ~~December 31, 1994~~. The evaluation *must* ~~shall~~ include, but *need* not be limited to, an assessment of the program's impact on quality of care, access to Medicaid services, cost-effectiveness, and provider and recipient satisfaction. It is the intent of the Legislature that the *MediPass* ~~agency apply for a federal freedom of choice waiver and any other federal waivers necessary to expand MediPass to five additional districts by December 31, 1994, and, subject to evaluation findings that the~~ program *be* ~~is~~ cost-effective, *provide* ~~provides~~ quality health care, and *improve* ~~improves~~ access to health services, *and that the program be expanded* to the remaining districts in the state by *June 30* ~~December 31~~, 1996.

(6)(a) All Medicaid recipients shall be enrolled in a managed-care plan or MediPass no later than June 30, 1996. A recipient shall be given continuously during his eligibility a choice of managed-care plans, but once a plan has been selected, the recipient must remain in the selected plan until the annual renewal date, unless the recipient moves to an area not served by the selected plan. In order to provide increased access to managed care, the agency shall request from the Health Care Financing Administration a waiver of the regulation requiring health maintenance organizations to have one commercial enrollee for each three Medicaid enrollees.

(b) The agency may not engage in practices designed to favor one health maintenance organization over another, or designed to influence Medicaid recipients to enroll in MediPass rather than a health maintenance organization or to enroll in a health maintenance organization rather than MediPass. This subsection does not prohibit the agency from reporting performance criteria about any plan adopted by rule.

(c) A recipient who is institutionalized in a mental-health facility or a long-term-care facility, including a skilled nursing facility or intermediate care facility for the developmentally disabled, or who is eligible for institutional care and is receiving services under a home waiver, a community-based waiver, or any other Medicaid waiver program, or who is a qualified Medicare beneficiary, is not subject to this subsection.

(d) The agency shall request all necessary federal waivers and authorizations to implement this subsection by October 1, 1995.

(7)(a) The agency shall submit a waiver request to the federal Health Care Financing Administration to establish prepaid Medicaid mental-health and substance-abuse programs targeting those who exhibit symptoms of acute or chronic mental illness, alcohol abuse, or drug abuse or children who are severely emotionally disturbed or in the state's custody. These programs must serve a geographic area of at least a county. The agency shall implement such programs in a manner that results in a savings from existing fee-for-service expenditures. A prepaid health plan contracting with the agency under this subsection must offer a county public general hospital that provides mental health services an opportunity to provide services under the plan's provider network.

(b) The agency shall appoint an advisory panel to review issues and concerns associated with providing services through managed-health-care plans to individuals who are eligible for Medicaid and who exhibit symptoms of acute or chronic mental illness, alcohol abuse, or drug abuse, or children who are severely emotionally disturbed or in the state's custody. The advisory panel shall submit its recommendations to the agency by October 1, 1995. The agency may not implement the mandatory Medicaid managed-care plan enrollment provisions of this section for this special population until the advisory panel has developed a specific plan addressing how the unique service needs of these individuals will be met.

(8) The agency, in consultation with the Department of Health and Rehabilitative Services, shall select providers who meet the criteria established by the Children's Medical Services Program Office of the department to serve as MediPass primary care providers for chronically ill children. The Children's Medical Service Program Office shall make available its specialty services system for child recipients of Medicaid with chronic illnesses. Medicaid managed-care providers shall use this service system or a comparable system of care based upon standards and criteria established by the agency, in consultation with the Children's Medical Services Program Office. A comparable system of care includes tertiary, regional and community-based providers, facilities,

and services and must be coordinated with education and social service systems to ensure that the most appropriate and medically necessary services or levels of care are provided. Services available in the system include, but are not limited to, case management, health education, early intervention, primary care, subacute care, specialty care, tertiary care, home health care, hospice, long-term care, medical rehabilitation, enabling services such as transportation and home visits, skilled nursing service, respite care, and other services considered necessary to maintain a chronically ill child at home. The Children's Medical Services Program, Florida's Title V Program for children with special health care needs, shall assure that a system of care is maintained or expanded to meet the needs of the chronically ill children in this state and may collaborate with managed-care providers to provide supplemental or long-term care services.

(9) The agency, in consultation with the State Health Officer and the Assistant Secretary for Children's Medical Services and the Florida Medical Association, the Florida Osteopathic Medical Association, the Florida Association of Family Practitioners, and the Florida Pediatric Society, shall develop patient-care standards for use in contracting for and monitoring the quality of inpatient and ambulatory care for all Medicaid managed-care providers including those serving children and adolescents with special health care needs, children and adults with mental-health and substance-abuse disorders, and high-risk perinatal patients.

(10) The Agency for Health Care Administration shall conduct a pilot program designed to test the feasibility of bidding Medicaid prepaid health plan services. The pilot program shall be conducted in District 4, within a county or multi-county area to be determined by the agency. The agency shall develop and release a request for proposals to provide prepaid health plan services to Medicaid recipients. As part of the request-for-proposals review process, the agency must review bid proposals using a weighted review mechanism based on bidder quality of services, cost of services, and actuarial soundness of the bidder. To ensure that Medicaid recipients have a choice of providers, at least three bidding prepaid health plans must be selected to serve as providers in the pilot area.

Section 47. Section 409.913, Florida Statutes, 1994 Supplement, is amended to read:

409.913 Oversight of the integrity of the Medicaid program.—The *agency* ~~department~~ shall operate a program to oversee the activities of *Florida* Medicaid recipients, and providers and their representatives, to ensure that fraudulent and abusive behavior and neglect of recipients occur to the minimum extent possible, *and to recover overpayments and impose sanctions as appropriate.*

(1) For the purposes of this section, the term:

(a) "Abuse" means:

1. Provider practices that are inconsistent with generally accepted business or medical practices and that result in an unnecessary cost to the Medicaid program or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care.

2. Recipient practices that result in unnecessary cost to the Medicaid program.

(b) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception results in unauthorized benefit to himself or another person. The term includes any act that constitutes fraud under applicable federal or state law.

(c) "Medical necessity" or "medically necessary" means a service necessary to prevent, diagnose, correct, cure, alleviate, or preclude deterioration of a condition that threatens life, causes pain or suffering, or results in illness or infirmity, which service is provided in accordance with generally accepted standards of medical practice. For purposes of determining Medicaid reimbursement, the agency is the final arbiter of medical necessity. "Necessity" shall be determined based upon the information available as of the time the service was rendered.

(d) "Overpayment" includes any amount that is not authorized to be paid by the Medicaid program but that has been paid as a result of inaccurate or improper cost reporting, improper claiming, unacceptable practices, fraud, abuse, or mistake.

(e) "Person" means any natural person, corporation, partnership, association, clinic, group, or other entity, whether or not such person is enrolled in the Medicaid program or is a surveyor of health care.

(2)~~(1)~~ The *agency* ~~department~~ shall conduct, or cause to be conducted by contract or otherwise, *reviews,* investigations, analyses, and audits, *or any combination thereof, to determine* ~~of~~ possible fraud, abuse, *overpayment, or recipient* ~~and~~ neglect in the Medicaid program and shall report the findings *of any overpayments* ~~therefrom~~ in ~~departmental~~ audit reports as appropriate.

(3)~~(2)~~ The *agency* ~~department~~ may conduct, or may contract for, prepayment review of provider claims to ensure cost-effective purchasing, billing, and provision of care to Medicaid recipients. Such prepayment reviews may be conducted as determined appropriate by the *agency* ~~department~~, without any suspicion or allegation of fraud, abuse, or neglect.

(4)~~(3)~~ Any suspected criminal violation ~~or fraudulent activity by a provider, or by the representative or agent of a provider~~, identified by the *agency must* ~~department shall~~ be referred to the Medicaid fraud control office of the Department of Legal Affairs for investigation. *The agency and the Department of Legal Affairs shall enter into a memorandum of understanding, which must include, but need not be limited to, a specific protocol for regularly sharing information and coordinating case work. The protocol must establish a procedure for the referral by the agency of cases involving suspected Medicaid fraud to the Medicaid fraud-control unit for investigation, and the return to the agency of those cases where investigation determines that administrative action by the agency is appropriate.*

(5)~~(4)~~ A Medicaid provider is subject to having goods and services that are paid for by the Medicaid program reviewed by an appropriate *peer-review* ~~peer review~~ organization designated by the *agency* ~~department~~. *The written findings of the applicable peer-review organization relating to Medicaid goods and services are admissible in any court or administrative proceeding as evidence of the medical necessity or the lack thereof.*

(6) Any notice required to be given to a provider under this section shall be presumed to be sufficient notice if sent to the address last shown on the provider enrollment file. It is the responsibility of the provider to furnish and keep the agency informed of the provider's current address. United States Postal Service proof of mailing or certified or registered mailing of such notice to the provider at the address shown on the provider enrollment file constitutes sufficient proof of notice. Any notice required to be given to the agency by this section must be sent to the Office of the Inspector General of the agency at an address designated by rule.

(7)~~(5)~~ When presenting a claim for payment under the Medicaid program, a provider has an affirmative duty to supervise the provision of, and be responsible for, goods and services claimed to have been provided, to supervise and be responsible for preparation and submission of the claim, and to present a claim that is true and accurate and that is for goods and services *that* ~~which~~:

(a) Have actually been furnished to the recipient by the provider prior to submitting the claim.

(b) Are *Medicaid-covered goods or services that are medically* necessary.

(c) Are of a quality comparable to those furnished to the general public by the provider's peers.

(d) Have not been billed in whole or in part to a recipient or a recipient's responsible party, except for such copayments, coinsurance, or deductibles as *are* ~~may be~~ authorized by the *agency* ~~department~~.

(e) Are provided in accord with applicable provisions of all Medicaid rules, regulations, handbooks, and policies and in accordance with federal, state, and local law.

(f) Are documented by records made at the time the goods or services were provided, demonstrating the appropriateness of the goods or services rendered.

(8)~~(6)~~ A Medicaid provider shall retain *medical,* professional, ~~and~~ financial, *and business* records pertaining to services and goods furnished to a Medicaid recipient and billed to Medicaid for a period of 5 years

after the date of furnishing such services or goods. *The agency may investigate, review, or analyze such records, which must be made available during normal business hours. However, 24-hour notice must be provided if patient treatment would be disrupted. The provider is responsible for furnishing to the agency, and keeping the agency informed of the location of, the provider's Medicaid-related records. The authority of the agency to obtain Medicaid-related records from a provider is neither curtailed nor limited during a period of litigation between the agency and the provider.*

(9) Payments for the services of billing agents or persons participating in the preparation of a Medicaid claim may not be based on a percentage of amounts for which they bill nor based on the amount a provider receives from the Medicaid program.

(10) The agency may require repayment for inappropriate, medically unnecessary, or excessive care, services or supplies from the person furnishing them, the person under whose supervision they were furnished, or the person causing them to be furnished. In this respect, the agency may recover the amount paid for such care, services, or supplies from the person ordering or prescribing them.

(11) The agency may withhold Medicaid payments to a provider, in whole or in part, upon receipt of reliable evidence from law enforcement or prosecuting authorities that the circumstances giving rise to the need for withholding payments involve fraud or willful misrepresentation under the Medicaid program. The agency may withhold current and future payment of claims to the provider and may cause Medicaid payments to be intercepted.

(a) Notice of the withholding must be sent to the provider within 5 working days after taking such action. The notice must set forth the specific nature of the allegations if such information is available to the agency and not otherwise confidential, and must:

1. State that the payments are being withheld in accordance with this section.

2. State that the payments are withheld for a temporary period only, and recite the circumstances under which the withholding will be discontinued.

3. Specify whether the withholding applies to all or only some claims, and identify which claims are involved.

4. Inform the provider of the right to a hearing wherein he may submit written arguments and documentation in opposition to the withholding.

5. Inform the provider of the remedies available under this section.

(b) If a provider requests a hearing under s. 120.57, the hearing officer may conduct an in-camera inspection of the information upon which the agency has based its decision to withhold Medicaid payments from the provider. Upon the provider's or the agency's request, the hearing officer shall expedite the in-camera inspection. The hearing officer shall determine whether the agency has reliable information that a provider is involved in fraud or willful misrepresentation involving claims submitted to the Medicaid program. The agency may submit any evidence, affidavits, or documents that it considers necessary to inform the hearing officer of the facts and circumstances surrounding the withholding of Medicaid payments. The evidence provided by the agency must be sealed and may not be revealed to the provider until formal charges are filed. After conducting the in-camera inspection, the hearing officer shall issue a final order directing the agency to release the Medicaid payments or continue withholding the Medicaid payments.

(c) The filing of a petition for an administrative hearing under this section does not stay the agency's withholding of Medicaid payments. However, the withholding of payment is temporary and payments must resume if the agency, the prosecuting authorities, or a court of competent jurisdiction determines that there is insufficient evidence of fraud or willful misrepresentation on the part of the provider.

(12)~~(7)~~ The complaint and all information obtained pursuant to an investigation of a Medicaid provider, or the authorized representative or agent of a provider, relating to an allegation of fraud, abuse, or neglect are confidential and exempt from the provisions of s. 119.07(1):

(a) Until the *agency* ~~department~~ takes final agency action *with respect to* ~~respecting~~ the provider and requires repayment of any overpayment, or imposes an administrative sanction;

(b) Until the Attorney General refers the case for criminal prosecution;

(c) Until 10 days after the complaint is determined without merit; or

(d) At all times if the complaint or information is otherwise protected by law.

This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(13)~~(8)~~ The *agency may terminate a Medicaid provider's contract for a period of at least 5 years, and* ~~department~~ may *obtain civil remedies or* impose administrative sanctions against a Medicaid provider, if *the provider*:

(a) ~~The provider~~ Has entered into a pretrial intervention or other first-offender agreement respecting a charge of, has pled nolo contendere or guilty to a charge of, has been found guilty regardless of adjudication of, or has been convicted of *a criminal offense related to the delivery of any health care goods or services, including the performance of management or administrative functions relating to the delivery of health care goods or services* ~~Medicaid fraud or any other Medicaid related crime, such as theft, bribery, giving or receiving a kickback, or neglecting or physically abusing a recipient~~;

(b) ~~The provider~~ Has pled guilty to, has been found guilty regardless of adjudication of, or has been convicted of a criminal offense under federal law or the law of any state relating to the practice of the provider's profession; *or*

(c) Has been found by final agency order, or by a court of competent jurisdiction, to have neglected or physically abused a patient in connection with the provision of health care goods or services.

(14) If the provider has been suspended or terminated from participation in the Medicaid program or the Medicare program by the Federal Government or any state, the agency must immediately suspend or terminate, as appropriate, the provider's participation in the Florida Medicaid program for a period no less than that imposed by the Federal Government or any other state, and may not enroll such provider in the Florida Medicaid program while such foreign suspension or termination remains in effect. This sanction is in addition to all other remedies provided by law.

(15) The agency may seek any remedy provided by law, including, but not limited to, the remedies provided in subsection (16) and s. 812.035, if:

~~(c) The provider is excluded from the Medicare program for cause;~~

(a)~~(d)~~ The provider's license has not been renewed, or has been revoked, suspended, or terminated, *for cause,* by the licensing agency of any state;

~~(e) The provider is excluded from participation in the Medicaid or Medicare program by the Federal Government or any state;~~

(b)~~(f)~~ The provider has *failed to make available or has* refused access to Medicaid-related records to an ~~authorized~~ auditor, ~~or~~ investigator, *or other authorized* ~~acting as an~~ employee or agent of the *agency* ~~department~~, the Attorney General, a state attorney, or the Federal Government;

(c)~~(g)~~ The provider has not furnished *or has failed to make available*~~,~~ ~~upon reasonable notice,~~ such Medicaid-related records as the *agency has* ~~department~~ found necessary to determine whether Medicaid payments are or were due and the amounts thereof;

(d)~~(h)~~ The provider is not in compliance with provisions of *Medicaid provider publications that have been adopted by reference as rules in the Florida Administrative Code or with provisions of state or federal laws, rules, or regulations; with provisions of* ~~departmental policy manuals or handbooks which have been adopted by reference as rules in the Florida Administrative Code, state laws, federal rules and regulations,~~ a provider agreement between the *agency* ~~department~~ and the provider~~,~~ or *with* certifications found on claim forms *or on transmittal forms for electronically submitted claims that are* submitted by the provider or authorized representative as such provisions apply to the Medicaid program;

(e)~~(i)~~ The provider *or person who ordered or prescribed the care, services, or supplies* has furnished, or ordered the furnishing ~~to a recipient~~

of, goods or services *to a recipient which* ~~that~~ are inappropriate, unnecessary, excessive, or harmful to the recipient or are of inferior quality~~. Such determinations must be based on competent peer judgments and evaluations~~;

(f) The provider has demonstrated a pattern of failure to provide goods or services that are medically necessary;

(g)~~(j)~~ The provider or an authorized representative of the provider, *or a person who ordered or prescribed the care, services, or supplies,* has submitted or caused to be submitted false or erroneous Medicaid claims that have resulted in *overpayments* ~~payments~~ to the provider *or that exceed* ~~in excess of~~ those to which the provider was entitled under the Medicaid program;

(h)~~(k)~~ The provider or an authorized representative of the provider, *or a person who has ordered or prescribed the care, services, or supplies,* has submitted or caused to be submitted a Medicaid provider enrollment application, *a* request for prior authorization for Medicaid services, *a drug exception request,* or *a* Medicaid cost report that contains materially false or incorrect information; *however, a provider may not be sanctioned if the provider demonstrates that it has no knowledge of the submission of the false or incorrect information;*

(i)~~(l)~~ The provider or an authorized representative of the provider has collected from or billed a recipient or a recipient's responsible party improperly for amounts that should not have been so collected or billed by reason of the provider's billing the Medicaid program for the same service;

(j)~~(m)~~ The provider or an authorized representative of the provider has included in a cost report costs that are not allowable under a Florida Title XIX reimbursement plan, after the provider or authorized representative had been advised in an audit exit conference or audit report that the costs were not allowable;

(k)~~(n)~~ The provider is *charged by information or indictment with* ~~indicted for~~ fraudulent billing practices. The sanction applied for this reason is limited to suspension of the *provider's participation in* ~~provider from~~ the Medicaid program for the duration of the indictment *unless the provider is found guilty pursuant to the information or indictment*;

(l)~~(o)~~ The provider *or a person who has ordered, or prescribed the care, services, or supplies* is found liable for negligent practice resulting in death or injury to the provider's patient; ~~or~~

(m)~~(p)~~ The provider fails to demonstrate that it had available during a specific audit or review period sufficient quantities of goods, or sufficient time in the case of services, to support the provider's billings to the Medicaid program;~~.~~

(n) The provider has failed to comply with the notice and reporting requirements of s. 409.907;

(o) The provider has failed to maintain medical records made at the time of service, or prior to service if requested, demonstrating the necessity and appropriateness of the goods or services rendered; or

(p) The agency has received reliable information of patient abuse or neglect or of any act prohibited by s. 409.920.

(16)~~(9)~~ The *agency* ~~department~~ may impose any of the following sanctions on a provider *or a person* for any of the acts described in *subsection (13) or* subsection *(15)* ~~(8)~~:

(a) Suspension for a specific period of time of not more than 1 year.

(b) Termination for a specific period of time of from more than 1 year to 20 years.

(c) Imposition of a fine of up to $1,000 for each violation not exceeding a total fine of $25,000 in connection with any one audit or investigation. Each day that an ongoing violation continues, such as refusing to furnish Medicaid-related records or refusing access to records, is considered, for the purposes of this section, to be a separate violation. Each instance of improper billing of a Medicaid recipient; each instance of including an unallowable cost on a hospital or nursing home Medicaid cost report after the provider or authorized representative has been advised in an audit exit conference or *previous* audit report of the cost unallowability; each instance of furnishing a Medicaid recipient goods or professional services that are inappropriate or of inferior quality as determined by competent peer judgment; each instance of knowingly submitting a materially false or erroneous Medicaid provider enrollment application, request for prior authorization for Medicaid services, *drug exception request,* or cost report; each instance of inappropriate prescribing of drugs for a Medicaid recipient as determined by competent peer judgment; and each false or erroneous Medicaid claim leading to an overpayment to a provider is considered, for the purposes of this section, to be a separate violation.

(d) Immediate suspension, if the agency has received information of patient abuse or neglect or of any act prohibited by s. 409.920.

(e) A fine, not to exceed $10,000, for a violation of paragraph (15)(h).

(17)~~(10)~~ In determining the appropriate administrative sanction to be applied, *or the duration of any suspension or termination,* the *agency* ~~department~~ shall consider:

(a) The seriousness and extent of the violation or violations.

(b) Any prior history of violations by the provider *relating to the delivery of health care programs which resulted in either a criminal conviction or in administrative sanction or penalty.*

(c) Evidence of continued violation within the provider's management control of Medicaid statutes, rules, regulations, or policies after written notification to the provider of improper practice or instance of violation.

(d) *The effect, if any, on the quality of medical care provided to Medicaid recipients as a result of the acts of the provider.* ~~Any pain and suffering inflicted by the provider on a recipient.~~

(e) Any action by a licensing agency respecting the provider in any state in which the provider operates *or has operated.*

~~(f) The extent to which a lesser sanction is sufficient to remedy the violation by the provider, in the best judgment of the department.~~

(f)~~(g)~~ The apparent impact on access by recipients to Medicaid services if the provider is suspended or terminated, in the best judgment of the *agency* ~~department~~.

(g) Any other facts relating to the nature and seriousness of the violations, including any exculpatory facts.

In addition to the criteria specified in this subsection, the agency shall adopt, by rule, other criteria for determining the appropriate sanction to be applied, including, but not limited to, the use of sanctioning guidelines. The agency must document the use of such guidelines in each sanctioning recommendation.

(18)~~(11)~~ The *agency* ~~department~~ may take action to sanction, suspend, or terminate a particular provider working for a group provider, and may suspend or terminate Medicaid participation at a specific location, rather than or in addition to taking action against an entire group~~, if it determines such action is in the best interest of Medicaid recipients~~.

(19) The agency shall establish a process for conducting systematic followup reviews of a sampling of providers who have a history of overpayment under the Medicaid program. This process must consider the magnitude of previous fraud or abuse and the potential effect of continued fraud or abuse on Medicaid costs.

(20) If the agency has suspended a provider's participation in the Medicaid program, the agency must file an action under s. 120.59 seeking to enjoin the provider from participating in the Medicaid program. Failure to file this notice ends the suspension. Any proceeding to challenge the agency's suspension must be brought in the Leon County Circuit Court.

(21)~~(12)~~ In making a determination of overpayment to a provider, the *agency must* ~~department shall~~ use *accepted* ~~appropriate~~ and valid auditing, accounting, analytical, statistical, or *peer-review* ~~peer review~~ methods, or combinations thereof. Appropriate statistical methods may include, but are not limited to, sampling and extension to the population, *parametric and* nonparametric statistics, tests of hypotheses, and other generally accepted statistical methods. Appropriate analytical methods may include, but are not limited to, reviews to determine variances between the quantities of products that a provider had on hand and available to be purveyed to Medicaid recipients during the review period and the quantities of the same products paid for by the Medicaid pro-

gram for the same period, taking into appropriate consideration sales of the same products to non-Medicaid customers during the same period. *In meeting its burden of proof in any administrative or court proceeding, the agency may introduce the results of such statistical methods as evidence of overpayment.*

(22)~~(13)~~ When making a determination that an overpayment has occurred, the *agency* ~~department~~ shall prepare and issue *an* ~~a departmental~~ audit report to the provider showing the calculation of overpayments.

(23)~~(14)~~ The ~~departmental~~ audit report, supported by *agency* ~~department~~ work papers, showing an overpayment to a provider constitutes evidence of the overpayment. A provider may not present or elicit testimony, either on direct *examination* or cross-examination in any court or administrative proceeding, regarding the purchase or acquisition by any means of drugs, goods, or supplies; sales or divestment by any means of drugs, goods, or supplies; or inventory of drugs, goods, or supplies, unless such acquisition, sales, divestment, or inventory is documented by written invoices, written inventory records, or other competent written documentary evidence maintained in the normal course of the provider's business.

(24)~~(15)~~(a) In an *audit or* investigation of a violation *committed* by a provider *which is conducted* pursuant to this section, the *agency* ~~department~~ is entitled to recover *up to $15,000 in* investigative, *legal,* and *expert-witness* ~~expert~~ costs ~~not exceeding $15,000~~ if *the agency's* ~~a material violation is found and the department's~~ findings were not contested by the provider or, if contested, the *agency* ~~department~~ ultimately prevailed.

(b) The *agency* ~~department~~ has the burden of documenting the ~~investigative~~ costs, which include salaries and employee benefits and out-of-pocket expenses. The amount of ~~investigative~~ costs that may be recovered must be reasonable in relation to the seriousness of the violation and must be set taking into consideration the financial resources, earning ability, and needs of the provider, who has the burden of demonstrating such factors.

(c) The provider may pay the ~~investigative~~ costs over a period to be determined by the *agency,* ~~department~~ if the *agency* ~~department~~ determines that an extreme hardship would result to the provider from immediate full payment. Any default in payment of ~~investigative~~ costs may be collected by any means authorized by law ~~for enforcement of a judgment~~.

~~(d) Investigative costs that are recovered must be returned to the department.~~

(25)~~(16)~~ If the *agency* ~~department~~ imposes an administrative sanction under this section ~~for any of the acts described in subsection (8)~~ upon any provider *or person* who is regulated by *another* ~~a~~ state *entity* ~~agency other than the department~~, the *agency* ~~department~~ shall notify that *other entity* ~~agency~~ of the imposition of the sanction. Such notification must include the provider's *or person's* name and license number and the specific reasons for sanction.

(26)(a)~~(17)~~ The *agency* ~~department~~ may withhold Medicaid payments to a provider, up to the amount of the ~~alleged~~ overpayment *as determined by final agency audit report,* pending completion of *legal proceedings* ~~an investigation~~ under this section ~~if it has reasonable cause to believe that the provider has committed one or more violations in relation to such payments~~. *If the agency withholds payments under this section, the* ~~With the exception of providers terminated under the provisions of s. 120.59(3), in which case all payments shall be immediately terminated, the department may withhold payments under this provision, the monthly~~ Medicaid payment may not be reduced by more than 10 percent. *If it has been determined that an overpayment has not occurred,* ~~and~~ the payments withheld must be paid to the provider within 60 days with interest at the rate of 10 percent a year ~~upon determining that no such violation has occurred~~. *If the amount of the alleged overpayment exceeds $75,000, the agency may reduce the Medicaid payments by up to $25,000 per month.*

(b) Overpayments owed to the agency bear interest at the legal rate of interest as provided in s. 55.03 from the date of determination of the overpayment by the agency, and payment arrangements must be made at the conclusion of legal proceedings. This section does not prohibit the agency from withholding greater amounts as provided by a final agency order, a judgment or order of a court of competent jurisdiction, or a stipulation or settlement agreement entered into between the agency and provider.

(c) The agency, upon entry of a final agency order, a judgment or order of a court of competent jurisdiction, or a stipulation or settlement, may collect the moneys owed by all means allowable by law, including, but not limited to, notifying any fiscal intermediary of Medicare benefits that the state has a superior right of payment. Upon receipt of such written notification, the Medicare fiscal intermediary shall remit to the state the sum claimed.

(27) The agency may impose administrative sanctions against a Medicaid recipient, or the agency may seek any other remedy provided by law, including, but not limited to, the remedies provided in s. 812.035, if the agency finds that a recipient has engaged in solicitation in violation of s. 409.920 or that the recipient has otherwise abused the Medicaid program The agency may restrict such recipient for a reasonable period of time from obtaining Medicaid benefits unless preauthorization has been obtained, except in the case of emergency service. The agency may also require that the recipient participate in a designated managed-care program. ~~If the amount of the alleged overpayment is in excess of $75,000, the department may reduce the Medicaid payments up to $25,000 per month.~~

Section 48. Section 409.914, Florida Statutes, is amended to read:

409.914 Assistance for the uninsured.—

(1) The agency shall use the claims payment systems, utilization control systems, cost control systems, case management systems, and other systems and controls that it has developed for the management and control of the Medicaid program to assist other agencies and entities, if appropriate, in paying claims and performing other activities necessary for the conduct of programs of state government, or for working with other public and private agencies to solve problems of lack of insurance, underinsurance, or uninsurability. When conducting these services, the *agency* ~~department~~ shall ensure:

(a) That full payment is received for services provided.

(b) That costs of providing these services are clearly segregated from costs necessary for the conduct of the Medicaid program.

(c) That the program conducted serves the interests of the state in ensuring that effective and quality health care at a reasonable cost is provided to the citizens of the state.

(2)(a) The agency shall seek federal statutory or regulatory reforms to establish a Medicaid buy-in program to provide medical assistance to persons ineligible for Medicaid because of current income and categorical restrictions. The agency shall use funds provided by the Robert Wood Johnson Foundation to assist in developing the buy-in program, including, but not limited to, the determination of eligibility and service coverages; cost sharing requirements; managed care provisions; changes needed to the Medicaid program's claims processing, utilization control, cost control, case management, and provider enrollment systems to operate a buy-in program.

(b) The agency shall seek federal authorization and financial support for a buy-in program that provides federally supported medical assistance coverage for persons with incomes up to 250 percent of the federal poverty level. The agency *may* ~~shall~~ not implement the Medicaid buy-in program until it has received necessary federal authorization and financial participation and state appropriations.

Section 49. Section 409.916, Florida Statutes, is amended to read:

409.916 Deposit of grants and rebates.—The *agency* ~~department~~ shall deposit any funds received from pharmaceutical manufacturers and all other funds received by the *agency* ~~department~~ from any other person as the result of a cost containment strategy, in the nature of a rebate, grant, or other similar mechanism into the Grants and Donations Trust Fund. Funds received from pharmaceutical manufacturers shall be used as the state portion for funding Medicaid prescribed drug services. However, at least $75,000 may be appropriated from the Grants and Donations Trust Fund for Medicaid research and development activities as specified in the General Appropriations Act.

Section 50. Section 409.919, Florida Statutes, is amended to read:

409.919 Rules.—The *agency* ~~department~~ shall adopt any rules necessary to comply with or administer ss. 409.901-409.920 and all rules necessary to comply with federal requirements.

Section 51. Section 409.920, Florida Statutes, 1994 Supplement, is amended to read:

409.920 Medicaid provider fraud.—

(1) *As used in* ~~For the purposes of~~ this section, the term:

(a) "Fiscal agent" means any individual, firm, corporation, partnership, organization, or other legal entity that has contracted with the *agency* ~~department~~ to receive, process, and adjudicate claims under the Medicaid program.

(b) "Item or service" includes:

1. Any particular item, device, medical supply, or service claimed to have been provided to a recipient and listed in an itemized claim for payment; or

2. In the case of a claim based on costs, any entry in the cost report, books of account, or other documents supporting such claim.

(c) "Knowingly" means done by a person who is aware or should be aware of the nature of his conduct and that his conduct is substantially certain to cause the intended result.

(2) Any person who:

(a) Knowingly makes, causes to be made, or aids and abets in the making of any false statement or false representation of a material fact, by commission or omission, in any claim submitted to the *agency* ~~department~~ or its fiscal agent for payment is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Knowingly makes, causes to be made, or aids and abets in the making of a claim for items or services that are not authorized to be reimbursed by the Medicaid program is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Knowingly charges, solicits, accepts, or receives anything of value, other than an authorized copayment *or coinsurance payment* from a Medicaid recipient, from any source in addition to the amount legally payable for an item or service provided to a Medicaid recipient under the Medicaid program or knowingly fails to credit the *agency* ~~department~~ or its fiscal agent for any payment received from a third-party source is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Knowingly makes or in any way causes to be made any false statement or false representation of a material fact, by commission or omission, in any document containing items of income and expense that is or may be used by the *agency* ~~department~~ to determine a general or specific rate of payment for an item or service provided by a provider is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) Knowingly solicits, offers, pays, or receives any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made, in whole or in part, under the Medicaid program, or in return for obtaining, purchasing, leasing, ordering, or arranging for or recommending, obtaining, purchasing, leasing, or ordering any goods, facility, item, or service, for which payment may be made, in whole or in part, under the Medicaid program is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(f) Knowingly fails to bill, or attempt to collect from a Medicaid recipient an authorized copayment for a Medicaid service that requires a copayment in return for specific Medicaid reimbursement is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(g) Knowingly submits false or misleading information or statements to the Medicaid program for the purpose of being accepted as a Medicaid provider is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) The repayment of Medicaid payments wrongfully obtained, or the offer or endeavor to repay Medicaid funds wrongfully obtained, does not constitute a defense to, or a ground for dismissal of, criminal charges brought under this section.

(4) All records in the custody of the *agency* ~~department~~ or its fiscal agent which relate to Medicaid provider fraud are business records within the meaning of s. 90.803(6).

(5) Proof that a claim was submitted to the *agency* ~~department~~ or its fiscal agent which contained a false statement or a false representation of a material fact, by commission or omission, unless satisfactorily explained, gives rise to an inference that the person whose signature appears as the provider's authorizing signature on the claim form, or whose signature appears on *an agency* ~~a department~~ electronic claim submission agreement submitted for claims made to the fiscal agent by electronic means, had knowledge of the false statement or false representation. This subsection applies whether the signature appears on the claim form or the electronic claim submission agreement by means of handwriting, typewriting, facsimile signature stamp, computer impulse, initials, or otherwise.

(6) Proof of submission to the *agency* ~~department~~ or its fiscal agent of a document containing items of income and expense, which document is used or ~~that~~ may be used by the *agency* ~~department~~ or its fiscal agent to determine a general or specific rate of payment and which document contains a false statement or a false representation of a material fact, by commission or omission, unless satisfactorily explained, gives rise to the inference that the person who signed the certification of the document had knowledge of the false statement or representation. This subsection applies whether the signature appears on the document by means of handwriting, typewriting, facsimile signature stamp, electronic transmission, initials, or otherwise.

(7) Any person who agrees, conspires, combines, or confederates with another person to commit any act prohibited by subsection (2) is guilty of a misdemeanor of the first degree and is punishable as if he had actually committed such prohibited act. This subsection does not prohibit separate convictions and sentences for a violation of this subsection and a violation of any other provision of this section.

(8) A criminal action or proceeding under this section may be commenced at any time within 5 years after the cause of action accrues.

(9) The Attorney General shall conduct a statewide program of Medicaid fraud control. To accomplish this purpose, the Attorney General shall:

(a) Investigate the possible criminal violation of any applicable state law pertaining to fraud in the administration of the Medicaid program, in the provision of medical assistance, or in the activities of providers of health care under the Medicaid program.

(b) Investigate the alleged abuse or neglect of patients in health care facilities receiving payments under the Medicaid program, in coordination with the *agency* ~~department~~.

(c) Investigate the alleged misappropriation of patients' private funds in health care facilities receiving payments under the Medicaid program.

(d) Refer to the Office of Statewide Prosecution or the appropriate state attorney all violations indicating a substantial potential for criminal prosecution.

(e) Refer to the *agency* ~~department~~ all suspected abusive activities not of a criminal nature.

(f) Refer to the *agency* ~~department~~ for collection each instance of overpayment to a provider of health care under the Medicaid program which he discovers during the course of an investigation.

(g) Safeguard the privacy rights of all individuals and provide safeguards to prevent the use of patient medical records for any reason beyond the scope of a specific investigation for fraud or abuse, or both, without the patient's written consent.

(10) In carrying out his duties and responsibilities under this section, the Attorney General may:

(a) Enter upon the premises of any health care provider, excluding a physician, participating in the Medicaid program to examine all accounts and records that may, in any manner, be relevant in determining the existence of fraud in the Medicaid program, to investigate alleged abuse or neglect of patients, or to investigate alleged misappropriation of patients' private funds. A participating physician *shall* ~~is required to~~ make available any accounts or records that may, in any manner, be relevant in determining the existence of fraud in the Medicaid program. The

accounts or records of a non-Medicaid patient may not be reviewed by, or turned over to, the Attorney General without the patient's written consent.

(b) Subpoena witnesses or materials within or outside the state and, through any duly designated employee, administer oaths and affirmations and collect evidence for possible use in either civil or criminal judicial proceedings.

(c) Request and receive the assistance of any state attorney or law enforcement agency in the investigation and prosecution of any violation of this section.

Section 52. Section 624.3103, Florida Statutes, is created to read:

624.3103 Coordination of benefits with Medicaid.—Notwithstanding any other provision of law, authorized health insurers, health maintenance organizations, multiple-employer welfare arrangements, fraternal benefit societies, assessable mutual insurers, prepaid health plans, prepaid limited health service organizations, and self-insured plans providing health benefits are prohibited from considering an enrollee's, subscriber's, policyholder's, or certificateholder's availability of, or eligibility for, medical assistance in this state or any other state under Medicaid when considering the eligibility for coverage or when making payments under a health benefit plan on behalf of an eligible enrollee, subscriber, policyholder, or certificateholder.

Section 53. Section 624.3104, Florida Statutes, is created to read:

624.3104 Health insurance coverage for children.—

(1) For purposes of this section, the term "insurer" means an authorized health insurer, health maintenance organization, multiple-employer welfare arrangement, fraternal benefit society, assessable mutual insurer, prepaid health plans, prepaid limited health service organization, or self-insured health plan.

(2) An insurer may not deny enrollment of a child under the health benefit plan of the child's parent on the grounds that:

(a) The child was born out of wedlock;

(b) The child is not claimed as a dependent on the parent's federal income tax return; or

(c) The child does not reside with the parent or in the insurer's service area, notwithstanding the provisions of any other section.

(3) If a child is provided health insurance coverage through an insurer of a noncustodial parent, the insurer shall:

(a) Provide the custodial parent such information as may be necessary for the child to obtain benefits through the health insurance plan of the noncustodial parent.

(b) Permit the custodial parent or a health care provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent.

(c) Make payments on claims submitted in accordance with paragraph (b) directly to the custodial parent, the health care provider, or the Agency for Health Care Administration in cases where the claim is for health services provided by Medicaid.

(4) If a parent is required by a court order to provide health insurance coverage for a child and the parent is eligible for family health insurance coverage through an insurer, the insurer and employer shall, upon receipt of a copy of the court order:

(a) Permit the parent to enroll, under the family coverage, a child who is otherwise eligible for coverage under the parent's plan, without regard to any enrollment period or other seasonal restrictions.

(b) If the parent enrolled under a health plan fails to make an application to obtain coverage for the child, permit the enrollment of the child under family coverage upon the application of the child's other parent, the Agency for Health Care Administration pursuant to its administration of Medicaid, or the Department of Revenue pursuant to its administration of child support enforcement.

(c) Not disenroll or eliminate coverage for the child unless the insurer is provided satisfactory written evidence that:

1. The court order is no longer in effect; or

2. The child is or will be enrolled in similar health coverage through another insurer which will take effect not later than the effective date of disenrollment.

(5) If a parent is required by a court order to provide health insurance coverage for a child and the parent is eligible for family health insurance coverage through an insurer, the employer shall, upon receipt of a copy of the court order, withhold from the employee's compensation the employee's share, if any, of premiums for health coverage and pay this amount to the insurer.

(6) An insurer shall not impose any terms or conditions on a state agency that has been assigned the rights of an individual eligible for medical assistance under Medicaid and covered for health benefits under a health insurance plan issued by the insurer which terms or conditions differ from those applicable to an agent or assignee of any other individual covered under the same or similar policy.

Section 54. Subsection (3) of section 641.21, Florida Statutes, is amended to read:

641.21 Application for certificate.—

(3) Any person or entity which enters into a contract with the *agency* ~~Department of Health and Rehabilitative Services~~ on a prepaid per capita or prepaid aggregate fixed-sum basis for the provision of health care services or social services, or both, to persons determined eligible for such services shall be exempt from the provisions of this chapter and shall be governed by the standards set forth by the *agency* ~~Department of Health and Rehabilitative Services~~ unless the person or entity provides health care services on a prepaid basis to persons other than those for which the *agency* ~~Department of Health and Rehabilitative Services~~ has contracted. However, any person or entity which is not certificated under the provisions of this chapter shall not use in its name, logo, contracts, or literature the phrases "health care service plan," "health maintenance organization," or "prepaid health clinic" or the initials "HMO" or "PHC"; imply, directly or indirectly, that it is a health care services plan, health maintenance organization, or prepaid health clinic; or hold itself out to be a health care services plan, health maintenance organization, or prepaid health clinic. A prepaid plan exempt under this subsection shall be subject to regulation by the *agency* ~~Department of Health and Rehabilitative Services~~ in accordance with s. 641.48(2). *The exemption provided by this subsection expires July 1, 1995. Entities with which the agency has signed a prepaid health care contract by July 1, 1995, regardless of Health Care Financing Administration approval, must receive a certificate of authority from the Department of Insurance under this section by January 1, 1997, or within 3 years after the effective date of the entity's initial contract, whichever is earlier. After July 1, 1995, any Medicaid prepaid health plan contractor must have a Department of Insurance certificate of authority before it may qualify for approval as a prepaid health plan, unless the plan will provide services in a county that has two or fewer existing Medicaid prepaid health plans, in which case the contractor must receive a Department of Insurance certificate of authority by July 1, 1997. Upon receiving a certificate of authority from the Department of Insurance, the entity must apply for, and subsequently receive, accreditation.*

Section 55. Subsection (4) is added to section 641.386, Florida Statutes, to read:

641.386 Agent licensing and appointment required; exceptions.—

(4) All agents and health maintenance organizations shall comply with and be subject to the applicable provisions of ss. 641.309, 641.3901, and 409.912(27), and all companies and entities appointing agents shall comply with s. 626.451, when marketing or enrolling for any health maintenance organization licensed under part I of chapter 641, including those organizations under contract with Medicaid to provide health services or any entity providing services pursuant to a prepaid health plan contract with the Agency for Health Care Administration.

Section 56. The sum of $583,140 is appropriated for fiscal year 1995-1996 and 10 positions are authorized from the Insurance Regulatory Trust Fund to the Department of Insurance for the purpose of carrying out the provisions of this act.

Section 57. Subsection (6) is added to section 154.011, Florida Statutes, to read:

154.011 Primary care services.—

(6) With the approval of the board of county commissioners, a county public health unit or a county-operated managed-care program may create a nonprofit incorporated entity for the purpose of establishing a health maintenance organization to satisfy the requirement for incorporation in s. 641.2015.

Section 58. Subsections (4) and (6) of section 641.225, Florida Statutes, are repealed, and subsection (3) of that section is amended to read:

641.225 Surplus requirements.—

(3) An entity providing prepaid capitated services exempt under s. 641.48(2) which ~~was providing such services prior to October 1, 1988, and which~~ applies for a certificate of authority is subject to the minimum surplus requirements contained in subsection (1).

Section 59. Section 627.6474, Florida Statutes, is created to read:

627.6474 Combination policies and certificates.—

(1) DEFINITION.—As used in this section, the term "combination policies and certificates" means any arrangement whereby an insured has a choice, at the time service is rendered, whether to access benefits through a restricted network of providers who have contracted with a health maintenance organization or by any provider of his choosing.

(2) AUTHORITY TO ISSUE.—

(a) Subject to the requirements contained in this section, nothing in this code, including chapter 641, or in rules adopted thereunder, shall be deemed to prohibit an authorized insurer and a licensed health maintenance organization, in conjunction, from soliciting, offering, or providing combination policies or certificates either in separate policies or certificates or in a combined policy or certificate.

(3) MINIMUM STANDARDS.—

(a) An authorized insurer and a licensed health maintenance organization may enter into an arrangement and issue combination policies, provided that:

1. All form and rate filings are made jointly.

2. All filings contain an authorization from both parties that each will be responsible for the accuracy of the information contained in the combined filing.

3. Both the insurer and health maintenance organization are clearly identified to the policyholder and subscribers.

4. A written agreement is entered into between the insurer and the health maintenance organization, which agreement clearly states the manner in which the point of service arrangement is to be administered by the parties, the assumed premium split, the premium adjustment period, and methods of premium adjustment.

5. All agreements between an insurer and a health maintenance organization to enter into a combination policy or certificate contain the terms and conditions specifying responsibility for policyholder liability in the event the insurer or health maintenance organization becomes unable or unwilling to fulfill its duties under the combined policy or certificate.

6. The written agreement required by subparagraph 4. and any amendments thereto must be filed with the department for approval and may not be used until such approval is granted. For the purposes of this subsection, the agreement filed hereto shall be considered a part of the form filing and shall be reviewed in accordance with s. 627.410(2).

7. Sales and advertising material used with a combination policy or certificate must be filed with the department and must reference the combination policy or certificate and clearly identify the participating insurer and health maintenance organization.

8. Combined policies or certificates constitute one policy regardless of form and are not subject to s. 627.4235. However, this subsection does does not prohibit a combined policy or certificate issued by a health maintenance organization or insurer from coordinating benefits with other policies pursuant to s. 627.4235.

9. All rate filings for combined policies or certificates must contain the following terms and conditions, as well as any other applicable requirements under statute or rule:

a. The insurer and the health maintenance organization shall perform their own pricing on a net claims basis.

b. The insurer and health maintenance organization shall calculate their own expenses and profit margins.

c. Expenses are to be itemized and must clearly identify which entity is performing which duty relative to each expense item.

d. Minimum loss ratios, as defined by the insurance code or in any applicable rule adopted thereunder, must be met by each entity.

(b) The insurer and health maintenance organization must give no less than 90 days' notice to the department before terminating the agreement required in subparagraph (a)4.

(4) SEGREGATION OF BUSINESS AND REPORTING REQUIREMENTS.—

(a) The insurer and the health maintenance organization shall maintain separate records relating to any combination policy or certificate. On each financial report made to the department, each entity shall provide the following information:

1. Total earned premium under each combined policy or certificate.

2. Total number of policyholders, certificateholders, and subscribers under each combined policy or certificate.

3. Loss ratios on each combined policy or certificate.

(b) Each company shall report annually the incurred but not reported liabilities for the combined policies or certificates. The annual actuarial certification must also contain a specific certification that the rate charged for the combined policy or certificate is not inadequate, excessive, or unfairly discriminatory.

(c) The department may adopt rules to clarify reporting requirements for combined policies or certificates.

(5) APPLICABILITY OF GUARANTY FUND COVERAGE.—The indemnity portion of a combined policy or certificate covered by an authorized insurer is subject to part III of chapter 631. The managed care portion of a combined policy or certificate covered by a licensed health maintenance organization is subject to part IV of chapter 631.

Section 60. Subsection (5) is added to section 641.30, Florida Statutes, to read:

641.30 Construction and relationship to other laws.—

(5) Every health maintenance organization issuing a combined policy or certificate shall comply with s. 627.6474.

Section 61. (1) The Agency for Health Care Administration shall convene a workgroup to analyze the impact of Medicaid managed-care mandates and the expansion of MediPass on the viability of federally qualified health centers.

(2) The workgroup shall consist of seven members appointed by the Director of Health Care Administration as follows:

(a) Five members who represent federally qualified health centers, geographically distributed statewide.

(b) One member who represents the Medicaid program office.

(c) One member who represents the office that oversees managed-care providers.

(3) The workgroup shall report to the President of the Senate and the Speaker of the House of Representatives by December 1, 1995.

Section 62. This act shall take effect July 1, 1995.

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 health care; providing legislative findings and intent relating to managed long-term care; providing a short title; providing definitions; amending s. 20.41, F.S.; providing for the coordination of long-term-care policy by the Department of Elderly Affairs; requiring the creation of managed long-term care demonstration projects; providing requirements for the Department of Elderly Affairs and the Agency for Health Care Administration in creating the demonstration

projects; requiring certain components in the demonstration projects; requiring reports; amending ss. 154.304, 154.306, 154.308, 154.309, 154.31, 154.3105, 154.312, F.S., relating to the Florida Health Care Responsibility Act of 1988; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; amending ss. 409.901, 409.902, 409.903, 409.904, 409.905, F.S., relating to the Medicaid program; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; providing additional definitions; incorporating technical revisions; providing for eligibility of certain persons for specified health care services; amending s. 409.907, F.S.; providing additional requirements for Medicaid provider agreements; authorizing the agency to review and approve Medicaid applications; requiring the agency to adopt rules; prohibiting the agency from contracting with certain providers; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; amending s. 409.908, F.S., relating to reimbursement of Medicaid providers; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; revising the methodology for reimbursing prepaid plan providers and for labor management in a birth center; authorizing reimbursement of home deliveries by licensed midwives; amending s. 409.9081, F.S., relating to copayments or coinsurance payments for certain Medicaid services; deleting references to specific services, a copayment study requirement, and copayment exceptions; specifying that copayments and coinsurance requirements will be determined by the General Appropriations Act; creating s. 409.9102, F.S.; authorizing the Agency for Health Care Administration, in administering the Medicaid program, to petition for a court order garnishing wages of persons under certain circumstances; amending ss. 409.911, 409.9112, updating references to reflect the abolishment of the Health Care Cost Containment Board and the transfer of its duties to the agency; amending s. 20.42, F.S.; deleting the responsibility of the Division of Health Policy and Cost Control within the Agency for Health Care Administration for reviewing hospital budgets; abolishing the Health Care Board; amending s. 112.153, F.S.; updating a reference to reflect the abolishment of the Health Care Cost Containment Board and the transfer of its duties to the Agency for Health Care Administration; amending s. 154.304, F.S., relating to health care for indigent persons; revising definitions; amending s. 212.055, F.S., relating to discretionary sales surtaxes; updating references to reflect the abolishment of the Health Care Cost Containment Board and the transfer of its duties to the Agency for Health Care Administration; amending s. 394.4788, F.S., relating to mental health services; updating references to reflect the abolishment of the Health Care Cost Containment Board and the transfer of its duties to the Agency for Health Care Administration; amending s. 395.0163, F.S., relating to construction inspections; exempting certain detached health care facilities from review by the Office of Plans and Construction of the agency; amending s. 395.401, F.S.; providing for certain reports formerly made to the Health Care Board to be made to the agency; amending ss. 395.701, 395.804, F.S., relating to the Public Medical Assistance Trust Fund and the Medical Education and Tertiary Care Trust Fund; conforming provisions to reflect the assumption by the agency of duties formerly performed by the Health Care Board; transferring, renumbering, and amending s. 407.61, F.S., relating to studies, evaluations, and recommendations; conforming provisions to reflect the assumption by the agency of duties formerly performed by the Health Care Board; amending s. 408.001, F.S., relating to the Florida Health Care Purchasing Cooperative; updating references to reflect the abolishment of the Health Care Cost Containment Board and the transfer of its duties to the agency; amending s. 408.07, F.S.; conforming definitions to changes made by the act; amending s. 408.08, F.S.; deleting provisions requiring the Health Care Board to review the budgets of certain hospitals; deleting requirements that a hospital file budget letters; deleting certain administrative penalties; amending s. 409.2673, F.S., relating to health care programs for low-income persons and the disproportionate share program for teaching hospitals; updating references to reflect the abolishment of the Health Care Cost Containment Board and the transfer of its duties to the agency; amending s. 409.9113, F.S.; relating to disproportionate share programs; conforming provisions to reflect transfer of regulatory jurisdiction; amending s. 440.13, F.S., relating to reimbursements for medical services under the Workers' Compensation Law; deleting a reference to reviews of hospital budgets made obsolete by the act; amending s. 395.1055, F.S., relating to disaster-shelter standards applicable to hospitals and ambulatory surgical centers; providing a moratorium for implementation; repealing ss. 395.403(9) and 395.806(3), F.S., relating to the review of hospital budgets; repealing s. 408.003, F.S., relating to the Health Care Board; repealing ss. 408.072 and 408.085, F.S., relating to the review of hospital budgets; repealing s. 455.236(3)(g), F.S., relating to the Health Care Cost Containment Board; providing for applicability of the repeal of hospital budget review; amending s. 409.9115, F.S., relating to disproportionate share programs; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; creating s. 409.9118, F.S.; specifying requirements for the provision of emergency services and care by certain provider entities; amending s. 409.912, F.S., relating to the purchase of goods and services for Medicaid recipients; conforming provisions to the transfer of responsibilities for the Medicaid program from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; revising requirements for contracting with entities providing prepaid health and mental health services and for Department of Insurance certification of entities providing prepaid health care services; deleting the requirement that certain guaranteeing organizations be nonprofit entities; providing requirements for reimbursements to hospitals and physicians that provide services on a prepaid or fixed-sum basis; requiring the agency to establish a health care quality-improvement system for certain Medicaid prepaid plan providers and managed-care providers; specifying the elements of the system; requiring Medicaid prepaid plan providers and MediPass providers to provide certain member services; specifying certain care, and documentation of care, provided to Medicaid prepaid plan and MediPass enrollee infants and pregnant women; requiring a prepaid health plan medical director or chief medical officer to meet certain licensure requirements; prohibiting certain enrollment or selection incentives and activities; requiring agency approval of certain marketing materials; authorizing certain marketing and enrollment activities; requiring marketing materials in foreign languages to be made available under certain circumstances; providing for fines by the agency for violations of s. 409.912, F.S., and calculation of fine amounts; providing for recipient disenrollment under certain circumstances; requiring enrollment personnel to meet certain requirements; requiring recipient access to a complaint hotline and assistance panel; requiring prepaid health plans to have a grievance procedure; specifying contents; requiring recipient-satisfaction surveys; requiring Department of Insurance certification for certain agency applicants; requiring accreditation following certification; requiring annual publication of certain provider information; requiring certain Medicaid recipient patient counseling; authorizing the agency to develop a rule and contract for certain monitoring activities; amending s. 409.9122, F.S.; requiring an evaluation of MediPass; specifying legislative intent; providing requirements for the agency in enrolling Medicaid recipients in managed care plans or MediPass; authorizing the agency to request a federal waiver for the purpose of establishing certain prepaid programs; requiring the agency to appoint a panel to review the provision of Medicaid managed-care services to special populations; requiring the agency to select MediPass primary care providers for chronically ill children; requiring the agency to develop patient care standards; requiring the agency to conduct a pilot project for bidding prepaid health plan services; amending s. 409.913, F.S., relating to Medicaid program integrity; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; expanding duties relating to recovery of overpayments and improper payments and imposition of sanctions; providing definitions; authorizing the use of applicable peer-review organization findings as evidence; providing notice procedures and requirements; providing additional requirements for claims; authorizing the agency to review records and conduct other investigations; limiting certain payments to billing agents; specifying conditions, limitations, and procedures for withholding provider Medicaid payments; providing for notice; providing for in-camera inspection of evidence; providing additional grounds for imposition of administrative sanctions; providing for suspension or termination of providers; providing civil remedies and fines; requiring notice under described circumstances; authorizing certain use of statistical evidence; amending recovery amount for investigative and expert costs; providing agency authority to collect moneys owed, including certain interest; amending s. 409.914, F.S., relating to assistance for the uninsured; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; amending ss. 409.916, 409.919, 409.920, F.S., relating to the deposit of grants and rebates, agency rules, and Medicaid provider fraud; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; creating s. 624.3103, F.S.; prohibiting insurers from considering an insured's eligibility for Medicaid when considering eligibility for coverage

or when making payments; creating s. 624.3104, F.S.; prohibiting insurers and employers from denying enrollment of a child under certain conditions; requiring certain claims procedures when a child is provided coverage through an insurer of a noncustodial parent; requiring the employer to withhold compensation from the employee for premiums; amending s. 641.21, F.S.; specifying time frames by which and circumstances under which certain entities must receive Department of Insurance certification; requiring accreditation following certification; amending s. 641.386, F.S.; requiring certain marketing representatives to meet specified criteria; providing appropriations; amending s. 154.011, F.S., relating to primary care services; allowing a nonprofit incorporated entity to be established in specified circumstances; repealing s. 641.225(4), (6), F.S., relating to surplus requirements for certain entities; amending s. 641.225, F.S.; subjecting certain entities providing prepaid services to minimum surplus requirements; creating s. 627.6474, F.S.; authorizing an insurer and a health maintenance organization to issue combination policies and certificates; providing a definition; providing authority, standards, recordkeeping and reporting requirements, and applicability; amending s. 641.30, F.S.; providing for construction and relationship to other laws; requiring the Director of Health Care Administration to appoint a workgroup to analyze Medicaid mandates and MediPass expansion; providing for membership of the workgroup; requiring a report; providing an effective date.

Senators Myers and Rossin offered the following amendment to **Amendment 1** which was moved by Senator Myers and failed:

Amendment 1A—On page 13, between lines 20 and 21, insert:

Section 35. Effective upon this act becoming a law and notwithstanding any provision of law to the contrary, open heart services at the following categories of hospitals shall not be considered a "tertiary health service:" state certified level I trauma centers, or state certified level II trauma centers at hospitals that are disproportionate share hospitals under chapter 409, Florida Statutes, and that also have the following tertiary, complex or specialized services; level III neonatal intensive care unit; 24-hour pediatric emergency room; comprehensive medical rehabilitation inpatient services; inpatient cardiac catheterization services; and regional perinatal forensive care center state designation. For hospitals with open heart services that are not considered a "tertiary health service", such program shall be reviewed by the agency as part of its periodic inspection and recertification program for trauma centers. If the agency determines that quality standards are not being met, the agency may require appropriate corrective action and it may terminate the open heart service.

(Renumber subsequent sections.)

Senators Myers and Rossin offered the following amendment to **Amendment 1** which was moved by Senator Myers and failed:

Amendment 1B—In title, on page 6, line 25, after the semicolon (;) insert: providing that certain open-heart services will not be considered "tertiary health service";

Senator Gutman moved the following amendment to **Amendment 1** which was adopted:

Amendment 1C (with Title Amendment)—On page 102, line 4, through page 103, line 17, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

In title, on page 168, strike all of lines 7-10 and insert: Health Care Administration; amending s. 409.912,

Senator Weinstein moved the following amendment to **Amendment 1** which failed:

Amendment 1D (with Title Amendment)—On page 158, between lines 26 and 27, insert:

Section 59. Subsection (15) is added to section 627.6472, Florida Statutes, to read:

627.6472 Exclusive provider organizations.—

(15) Notwithstanding any other provision of this section, an exclusive provider organization may not require a policyholder or certificate holder who seeks services from an ophthalmologist, dermatologist, or board-certified optometrist who has entered into a contract with the insurer to provide services as an exclusive provider to obtain a referral from a network provider or case manager in order to receive services from such an ophthalmologist, dermatologist, or board-certified optometrist who has been selected by the policyholder or certificateholder at any time permitted under the policy or certificate.

Section 60. Subsection (25) is added to section 641.31, Florida Statutes, to read:

641.31 Health maintenance contracts.—

(25) Notwithstanding any other provision of this section, a health maintenance organization may not require a subscriber who seeks services from an opthalmologist, dermatologist, or board-certified optometrist who has entered into a contract with the health maintenance organization to provide services as a health care provider to obtain a referral from a primary-care physician or case manager in order to receive services from such an ophthalmologist, dermatologist, or board-certified optometrist who has been selected by the subscriber at the time of enrollment or at any time permitted under the subscriber's contract.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 172, line 21, after the first semicolon (;) insert: amending ss. 627.6472, 641.31, F.S.; prohibiting exclusive provider organizations and health maintenance organizations from requiring the policyholder or subscriber to obtain a referral to receive services from certain health care providers;

Amendment 1 as amended was adopted.

On motion by Senator Gutman, by two-thirds vote **CS for SB 1808** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—28 Nays—12

Consideration of **SB 2354, CS for SB 2234** and **SB 300** was deferred.

On motion by Senator Dyer, by two-thirds vote **HB 2537** was withdrawn from the Committees on Criminal Justice and Judiciary.

On motion by Senator Dyer—

HB 2537—A bill to be entitled An act relating to criminal justice; amending s. 943.05, F.S.; revising duties of the Division of Criminal Justice Information Systems of the Florida Department of Law Enforcement with respect to crime reports; amending s. 943.051, F.S.; striking an incorrect reference; amending s. 943.0585, F.S.; revising guidelines relating to court orders for expunction of criminal history records; revising criteria for issuance of certificate of eligibility for expunction; specifying circumstances under which cause of action does not arise against a criminal justice agency for failure to comply with an expunction order; providing for disclosure to criminal justice agencies of certain information relating to expunged criminal history records; amending s. 943.059, F.S.; revising guidelines for court-ordered sealing of criminal history records; requiring requirements for petition to seal a criminal history record; specifying circumstances under which a cause of action does not arise against a criminal justice agency for failure to comply with a sealing order; amending s. 16.56, F.S.; authorizing the Office of Statewide Prosecution in the Department of Legal Affairs to investigate and prosecute specified offenses defined as racketeering activity; amending s. 905.34, F.S.; providing jurisdiction of the statewide grand jury over such offenses; amending s. 905.37, F.S.; providing an increased fee for statewide grand jurors; providing an effective date.

—a companion measure, was substituted for **CS for SB's 716 and 1686** and read the second time by title. On motion by Senator Dyer, by two-thirds vote **HB 2537** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—2

On motion by Senator Williams, by two-thirds vote **CS for CS for HB 1919** was withdrawn from the Committees on Transportation, Community Affairs; and Ways and Means.

On motion by Senator Williams—

CS for CS for HB 1919—A bill to be entitled An act relating to the local option fuel tax for county transportation systems; amending s. 336.025, F.S.; revising provisions which authorize certain counties to use tax proceeds for infrastructure; authorizing such counties to use a portion of the proceeds to pay a court-ordered refund of special assessments; authorizing pledge of such proceeds for bonded indebtedness not exceeding 15 years to pay such refund; providing for severability; providing an effective date.

—a companion measure, was substituted for **SB 2928** and read the second time by title. On motion by Senator Williams, by two-thirds vote **CS for CS for HB 1919** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

On motion by Senator Jennings—

HCR 2745—A concurrent resolution extending the 1995 regular legislative session under the authority of Article III, Section 3 (d) of the State Constitution; establishing limitations on the scope of legislation to be considered; providing for recess.

WHEREAS, the sixty days of the 1995 Regular Session of the Florida Legislature will expire on May 5, 1995, and the necessary tasks of the session have not been completed, NOW, THEREFORE,

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

That the 1995 Regular Session of the Florida Legislature is extended until 5:00 p.m., Friday May 12, 1995, under the authority of Article III, Section 3(d) of the State Constitution.

BE IT FURTHER RESOLVED that the regular session so extended shall consider only the following matters:

(1) Senate Bill 2800 and House Bill 2575; the general appropriations bills; and the Senate and House Conference Committee Report thereon;

(2) Senate Bill 2802 and House Bill 2577; the appropriations implementing bills; and the Senate and House Conference Committee Report thereon;

(3) Any substantive bills necessary to implement budget reductions or transfers contained in the general appropriations bills.

BE IT FURTHER RESOLVED that all other measures in both houses are hereby indefinitely postponed.

BE IT FURTHER RESOLVED that, upon adjournment Friday, May 5, 1995, either house may reconvene upon the call of its presiding officer.

—was taken up out of order by unanimous consent and by two-thirds vote read the second time in full, adopted by the required constitutional three-fifths vote of the members present and voting and certified to the House. The vote on adoption was:

Yeas—40 Nays—None

Consideration of **SB 946** was deferred.

SB 2454—A bill to be entitled An act relating to prescription drugs; amending s. 499.033, F.S.; requiring a prescription to dispense products containing ephedrine or its salts or isomers; providing for the Department of Health and Rehabilitative Services to determine whether to exempt certain products that contain the drug "ephedrine" from such requirement; providing criteria; exempting certain products from such requirement; providing an effective date.

—was read the second time by title.

The Committee on Health Care recommended the following amendment which was moved by Senator Myers and adopted:

Amendment 1 (with Title Amendment)—On page 1, line 15, through page 3, line 11, strike all of said lines and insert:

Section 1. Section 499.033, Florida Statutes, 1994 Supplement, is amended to read:

499.033 Ephedrine; prescription required.—Ephedrine is declared to be a prescription ~~legend~~ drug ~~and may be dispensed only upon the prescription of a practitioner authorized by law to prescribe medicinal drugs~~.

(1) Except as hereinafter provided, any product that contains any quantity of ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine, may be dispensed only upon the prescription of a duly licensed practitioner authorized by the laws of the state to prescribe medicinal drugs.

(2) A product containing ephedrine described in subsections (2)(a)-(e) is exempt from subsection (1) if it may lawfully be sold over-the-counter without a prescription under the federal act; is labeled and marketed in a manner consistent with the pertinent U. S. Food and Drug Administration Over-the-Counter Tentative Final or Final Monograph; and is manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse, when considered in the context with: the package sizes and the manner of packaging of the drug product; the name and labeling of the product; the manner of distribution, advertising, and promotion of the product; the duration, scope, health significance, and societal cost of abuse of the particular product; the need to provide medically important ephedrine-containing therapies to the public for U. S. Food and Drug Administration approved indications on an unrestricted, over-the-counter basis; and other facts as may be relevant to and consistent with public health and safety.

(a) Solid oral dosage forms that combine active ingredients in the following ranges for each dosage unit:

1. Theophylline (100 - 130mg), Ephedrine (12.5 - 24mg).

2. Theophylline (60 - 100mg), Ephedrine (12.5 - 24 mg), Guaifenesin (200 - 400mg).

3. Ephedrine (12.5 - 25mg), Guaifenesin (200 - 400mg).

4. Phenobarbital (not greater than 8mg) in combination with the ingredients of sub-paragraphs 1. or 2.

(b) Liquid oral dosage forms that combine active ingredients in the following ranges for each (5ml) dose:

1. Theophylline (not greater than 45mg), Ephedrine (not greater than 36mg), Guaifenesin (not greater than 100mg), Phenobarbital (not greater than 12mg).

2. Phenylephephrine (not greater than 5mg), Ephedrine (not greater than 5mg), chlorpheniramine (not greater than 2mg), dextromethorphan (not greater than 10mg), ammonium chloride (not greater than 40mg), ipecac fluid extract (not greater than 0.005ml).

(c) Anorectal preparations containing less than 5 percent ephedrine.

(d) Nasal decongestant compounds, mixtures, or preparations containing one-half percent or less ephedrine.

(e) Any drug product containing ephedrine that is marketed pursuant to an approved new drug application or legal equivalent under the federal act.

(3) The department may implement this section by rule.

Section 2. Present subsection (6) is renumbered as subsection (7) and a new subsection (6) is added to section 499.0054, Florida Statutes, to read:

499 0054 Advertising and labeling of drugs, devices, and cosmetics.—It is a violation of the Florida Drug and Cosmetic Act to perform or cause the performance of any of the following acts:

(6) The advertising or labeling of any product containing ephedrine, a salt of ephedrine, an isomer of ephedrine, or a salt of an isomer of ephedrine, for the indication of stimulation, mental alertness, weight

loss, appetite control, energy, or other indications not approved by the pertinent U. S. Food and Drug Administration Over-the-Counter Final or Tentative Final Monograph or approved new drug application under the federal act. In determining compliance with this requirement the department may consider the following factors:

(a) The packaging of the product;

(b) The name and labeling of the product;

(c) The manner of distribution, advertising, and promotion of the product, including verbal representations at the point of sale; and

(d) The duration, scope, and significance of abuse of the particular product.

Section 3. Section 893.03, Florida Statutes, is amended to read:

893.03 Standards and schedules.—The substances enumerated in this section are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual, chemical, or trade name designated. The provisions of this section shall not be construed to include within any of the schedules contained in this section any excluded ~~nonprescription~~ drugs listed within the purview of 21 C.F.R. s. 1308.22, styled "Excluded Substances~~.~~"*; 21 C.F.R. s. 1308.24, styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt Anabolic Steroid Products."*

(1) SCHEDULE I.—A substance in Schedule I has a high potential for abuse and has no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards. The following substances are controlled in Schedule I:

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Acetyl-alpha-methylfentanyl.
2. Acetylmethadol.
3. Allylprodine.
4. Alphacetylmethadol.
5. Alphamethadol.
6. Alpha-methylfentanyl (N-[1-(alpha-methyl-betaphenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine).
7. Alpha-methylthiofentanyl.
8. Alphameprodine.
9. Benzethidine.
10. Benzylfentanyl.
11. Betacetylmethadol.
12. Beta-hydroxyfentanyl.
13. Beta-hydroxy-3-methylfentanyl.
14. Betameprodine.
15. Betamethadol.
16. Betaprodine.
17. Clonitazene.
18. Dextromoramide.
19. Diampromide.
20. Diethylthiambutene.
21. Difenoxin.
22. Dimenoxadol.
23. Dimepheptanol.
24. Dimethylthiambutene.
25. Dioxaphetyl butyrate.
26. Dipipanone.
27. Ethylmethylthiambutene.
28. Etonitazene.
29. Etoxeridine.
30. Furethidine.
31. Hydroxypethidine.
32. Ketobemidone.
33. Levomoramide.
34. Levophenacylmorphan.
35. 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).
36. 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide).
37. 3-Methylthiofentanyl.
38. 3, 4-Methylenedioxymethamphetamine (MDMA).
39. Morpheridine.
40. Noracymethadol.
41. Norlevorphanol.
42. Normethadone.
43. Norpipanone.
44. Para-Fluorofentanyl.
45. Phenadoxone.
46. Phenampromide.
47. Phenomorphan.
48. Phenoperidine.
49. 1-(2-Phenylethyl)-4-Phenyl-4-Acetyloxypiperidine (PEPAP).
50. Piritramide.
51. Proheptazine.
52. Properidine.
53. Propiram.
54. Racemoramide.
55. Thenylfentanyl.
56. Thiofentanyl.
57. Tilidine.
58. Trimeperidine.

(b) Unless specifically excepted or unless listed in another schedule, any of the following substances, their salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Acetorphine.
2. Acetyldihydrocodeine.
3. Benzylmorphine.
4. Codeine methylbromide.
5. Codeine-N-Oxide.
6. Cyprenorphine.
7. Desomorphine.
8. Dihydromorphine.

9. Drotebanol.

10. Etorphine (except hydrochloride salt).

11. Heroin.

12. Hydromorphinol.

13. Methyldesorphine.

14. Methyldihydromorphine.

15. Monoacetylmorphine.

16. Morphine methylbromide.

17. Morphine methylsulfonate.

18. Morphine-N-Oxide.

19. Myrophine.

20. Nicocodine.

21. Nicomorphine.

22. Normorphine.

23. Pholcodine.

24. Thebacon.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances or which contains any of their salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-methylaminorex).

2. 4-Bromo-2,5-dimethoxyamphetamine.

3. Bufotenine.

4. Cannabis.

5. Cathinone.

6. Diethyltryptamine.

7. 2,5-Dimethoxyamphetamine.

8. 2,5-Dimethoxy-4-ethylamphetamine (DOET).

9. Dimethyltryptamine.

10. N-Ethyl-1-phenylcyclohexylamine (PCE) (Ethylamine analog of phencyclidine).

11. N-Ethyl-3-piperidyl benzilate.

12. N-ethylamphetamine.

13. Fenethylline.

14. N-Hydroxy-3,4-methylenedioxyamphetamine.

15. Ibogaine.

16. Lysergic acid diethylamide (LSD).

17. Mescaline.

18. 5-Methoxy-3,4-methylenedioxyamphetamine.

19. 4-methoxyamphetamine.

20. 4-Methyl-2,5-dimethoxyamphetamine.

21. 3,4-Methylenedioxy-N-ethylamphetamine.

22. 3,4-Methylenedioxyamphetamine.

23. N-Methyl-3-piperidyl benzilate.

24. N,N-dimethylamphetamine.

25. Parahexyl.

26. Peyote.

27. N-(1-Phenylcyclohexyl)-pyrrolidine (PCPY) (Pyrrolidine analog of phencyclidine).

28. Psilocybin.

29. Psilocyn.

30. Tetrahydrocannabinols.

31. 1-[1-(2-Thienyl)-cyclohexyl]-piperidine (TCP) (Thiophene analog of phencyclidine).

32. 3,4,5-Trimethoxyamphetamine.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of methaqualone or mecloqualone, including any of its salts, isomers, optical isomers, salts of their isomers, and salts of these optical isomers.

(2) SCHEDULE II.—A substance in Schedule II has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of the substance may lead to severe psychological or physical dependence. The following substances are controlled in Schedule II:

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis:

1. Opium and any salt, compound, derivative, or preparation of opium, except nalmefene or isoquinoline alkaloids of opium, including, but not limited to the following:

a. Raw opium.

b. Opium extracts.

c. Opium fluid extracts.

d. Powdered opium.

e. Granulated opium.

f. Tincture of opium.

g. Codeine.

h. Ethylmorphine.

i. Etorphine hydrochloride.

j. Hydrocodone.

k. Hydromorphone.

l. Metopon (methyldihydromorphinone).

m. Morphine.

n. Oxycodone.

o. Oxymorphone.

p. Thebaine.

2. Any salt, compound, derivative, or preparation of a substance which is chemically equivalent to or identical with any of the substances referred to in subparagraph 1., except that these substances shall not include the isoquinoline alkaloids of opium.

3. Any part of the plant of the species Papaver somniferum, L.

4. Cocaine or ecgonine, including any of their stereoisomers, and any salt, compound, derivative, or preparation of cocaine or ecgonine.

5. Dronabinol (synthetic THC) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product.

(b) Unless specifically excepted or unless listed in another schedule, any of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Alfentanil.

2. Alphaprodine.

3. Anileridine.

4. Bezitramide.

5. Bulk dextropropoxyphene (nondosage forms).

6. Carfentanil.

7. Dihydrocodeine.

8. Diphenoxylate.

9. Fentanyl.

10. Isomethadone.

11. Levomethorphan.

12. Levorphanol.

13. Metazocine.

14. Methadone.

15. Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane.

16. Moramide-Intermediate, 2-methyl-3-morpholoino-1, 1-diphenylpropane-carboxylic acid.

17. Nabilone.

18. Pethidine (meperidine).

19. Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.

20. Pethidine-Intermediate-B,ethyl-4-phenylpiperidine-4-carboxylate.

21. Pethidine-Intermediate-C,1-methyl-4-phenylpiperidine-4-carboxylic acid.

22. Phenazocine.

23. Phencyclidine.

24. 1-Phenylcyclohexylamine.

25. Piminodine.

26. 1-Piperidinocyclohexanecarbonitrile.

27. Racemethorphan.

28. Racemorphan.

29. Sufentanil.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts, isomers, optical isomers, salts of their isomers, and salts of their optical isomers:

1. Amobarbital.

2. Amphetamine.

3. Glutethimide.

4. Methamphetamine.

5. Methylphenidate.

6. Pentobarbital.

7. Phenmetrazine.

8. Phenylacetone.

9. Secobarbital.

(3) SCHEDULE III.—A substance in Schedule III has a potential for abuse less than the substances contained in Schedules I and II and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage. The following substances are controlled in Schedule III:

(a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant or stimulant effect on the nervous system:

1. Any substance which contains any quantity of a derivative of barbituric acid, including thiobarbituric acid, or any salt of a derivative of barbituric acid or thiobarbituric acid, including, but not limited to, butabarbital and butalbital.

2. Benzphetamine.

3. Chlorhexadol.

4. Chlorphentermine.

5. Clortermine.

6. Lysergic acid.

7. Lysergic acid amide.

8. Methyprylon.

9. Phendimetrazine.

10. Sulfondiethylmethane.

11. Sulfonethylmethane.

12. Sulfonmethane.

13. Tiletamine and zolazepam or any salt thereof.

(b) Nalorphine.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following controlled substances or any salts thereof:

1. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

2. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

3. Not more than 300 milligrams of hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

4. Not more than 300 milligrams of hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

5. Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

6. Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

7. Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

(d) Anabolic steroids.

1. The term "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids, that promotes muscle growth and includes:

a. Androsterone.

b. Androsterone acetate.

c. Boldenone.

d. Boldenone acetate.

e. Boldenone benzoate.

f. Boldenone undecylenate.

g. Chlorotestosterone (4-chlortestosterone).

h. Clostebol.

i. Dehydrochlormethyltestosterone.

j. Dihydrotestosterone (4-dihydrotestosterone).

k. Drostanolone.

l. Ethylestrenol.

m. Fluoxymesterone.

n. Formebulone (formebolone).

o. Mesterolone.

p. Methandienone.

q. Methandranone.

r. Methandriol.

s. Methandrostenolone.

t. Methenolone.

u. Methyltestosterone.

v. Mibolerone.

w. Nandrolone.

x. Norethandrolone.

y. Nortestosterone.

z. Nortestosterone decanoate.

aa. Nortestosterone phenylpropionate.

bb. Nortestosterone propionate.

cc. Oxandrolone.

dd. Oxymesterone.

ee. Oxymetholone.

ff. Stanolone.

gg. Stanozolol.

hh. Testolactone.

ii. Testosterone.

jj. Testosterone acetate.

kk. Testosterone benzoate.

ll. Testosterone cypionate.

mm. Testosterone decanoate.

nn. Testosterone enanthate.

oo. Testosterone isocaproate.

pp. Testosterone oleate.

qq. Testosterone phenylpropionate.

rr. Testosterone propionate.

ss. Testosterone undecanoate.

tt. Trenbolone.

uu. Trenbolone acetate.

vv. Any salt, ester, or isomer of a drug or substance described or listed in this subparagraph if that salt, ester, or isomer promotes muscle growth.

2. The term does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the United States Secretary of Health and Human Services for such administration. However, any person who prescribes, dispenses, or distributes such a steroid for human use is considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph.

(4) SCHEDULE IV.—A substance in Schedule IV has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to limited physical or psychological dependence relative to the substances in Schedule III. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, are controlled in Schedule IV:

(a) Alprazolam.

(b) Barbital.

(c) Bromazepam.

(d) Camazepam.

(e) Cathine.

(f) Chloral betaine.

(g) Chloral hydrate.

(h) Chlordiazepoxide.

(i) Clobazam.

(j) Clonazepam.

(k) Clorazepate.

(l) Clotiazepam.

(m) Cloxazolam.

(n) Delorazepam.

(o) Dextropropoxyphene (dosage forms).

(p) Diazepam.

(q) Diethylpropion.

(r) Estazolam.

(s) Ethchlorvynol.

(t) Ethinamate.

(u) Ethyl loflazepate.

(v) Fencamfamin.

(w) Fenproporex.

(x) Fludiazepam.

(y) Flunitrazepam.

(z) Flurazepam.

(aa) Halazepam.

(bb) Haloxazolam.

(cc) Ketazolam.

(dd) Loprazolam.

(ee) Lorazepam.

(ff) Lormetazepam.

(gg) Mazindol.

(hh) Mebutamate.

(ii) Medazepam.

(jj) Mefenorex.

(kk) Meprobamate.

(ll) Methohexital.

(mm) Methylphenobarbital.

(nn) Midazolam.

(oo) Nimetazepam.

(pp) Nitrazepam.

(qq) Nordiazepam.

(rr) Oxazepam.

(ss) Oxazolam.

(tt) Paraldehyde.

(uu) Pemoline.

(vv) Pentazocine.

(ww) Phenobarbital.

(xx) Phentermine.

(yy) Pinazepam.

(zz) Pipradrol.

(aaa) Prazepam.

(bbb) Propylhexedrine, excluding any patent or proprietary preparation containing propylhexedrine, unless otherwise provided by federal law.

(ccc) Quazepam.

(ddd) Tetrazepam.

(eee) SPA[(-)-1 dimethylamino-1, 2 diphenylethane].

(fff) Temazepam.

(ggg) Triazolam.

(hhh) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) SCHEDULE V.—A substance, compound, mixture, or preparation of a substance in Schedule V has a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States, and abuse of such compound, mixture, or preparation may lead to limited physical or psychological dependence relative to the substances in Schedule IV.

(a) Substances controlled in Schedule V include any compound, mixture, or preparation containing any of the following limited quantities of controlled substances, which shall include one or more active medicinal ingredients which are not controlled substances in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the controlled substance alone:

1. Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

2. Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

3. Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

4. Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

5. Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts: Buprenorphine.

(c) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: Pyrovalerone.

And the title is amended as follows:

In title, on page 1, line 10, after the semicolon (;) insert: amending s. 499.0054, F.S.; regulating ephedrine-containing products under the advertising and labelling requirements of the Florida Drug and Cosmetic Act; providing criteria for the Department of Health and Rehabilitative Services to apply in evaluating compliance with the Act; amending s. 893.03, F.S., deleting reference to nonprescription drugs; adding cross references to various federal regulations excluding or exempting certain drugs from the designation of "controlled substance;"

On motion by Senator Myers, by two-thirds vote **SB 2454** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—2

SB 2242—A bill to be entitled An act relating to copyrights; creating s. 501.93, F.S.; prohibiting a copyright owner or performing rights society from contracting with the proprietor of a business for the payment of royalties unless certain conditions and requirements are met; providing definitions; prohibiting certain actions by a copyright owner or performing rights society; specifying requirements for contracts for payment of royalties; making the contracts voidable in specified circumstances; providing civil penalties and remedies; providing an effective date.

—was read the second time by title.

The Committee on Judiciary recommended the following amendment which was moved by Senator Bankhead:

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

Section 1. Section 501.93, Florida Statutes, is created to read:

501.93 Copyright owners and performing rights societies.—

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

(a) "Area" means a circular geographic region within a 25-mile radius of a business. If a business has more than one location, each separate location has its own area.

(b) "Business" means a retail establishment, restaurant, bar, lounge, sports or entertainment facility, or any other similar place of business or any professional office located in this state in which the public assembles and in which nondramatic musical works are performed, broadcast, or otherwise transmitted for the enjoyment of the members of the public there assembled.

(c) "Copyright owner" means the owner of a copyright of a nondramatic musical work, other than a motion picture or other audiovisual work, recognized and enforceable under the copyright laws of the United States pursuant to Title 17 of the United States Code, Pub. L. No. 94-653 (17 U.S.C. s. 101 et seq.).

(d) "Performing rights society" means any business entity or association that licenses the public performance of nondramatic musical works on behalf of copyright owners, including, without limitation, the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc., and SESAC, Inc.

(e) "Proprietor" means the owner of a business.

(f) "Royalty" means the fee payable to a performing rights society for the public performance of a nondramatic musical work.

(2) PROHIBITED ACTIVITIES.—

(a) A performing rights society may not enter into, or offer to enter into, a contract for the payment of royalties by a proprietor unless at the time of the offer, or any time thereafter, but no later than 72 hours before the execution of that contract, it provides to the proprietor, in writing, the following:

1. A schedule of the rates and terms of royalties under the contract and the basis upon which those rates were calculated;

2. A schedule of the rates and terms of royalties under agreements executed by the performing rights society and proprietors of comparable businesses in the same area;

3. Notice that a listing of the copyright owners represented by the society and the works licensed under the contract will be made available at the request of the proprietor within 72 hours after such request. At the option of the proprietor, the listing shall be provided by electronic means;

4. The amounts and terms of any discounts offered upon any basis to other proprietors in the area; and

5. Written notice that the proprietor is entitled to the information contained in this paragraph, and that the failure of the performing rights society to provide that information is unlawful makes the contract voidable at the option of the proprietor.

(b) A performing rights society, or any agent or employee thereof, may not:

1. Enter onto the premises of a business or inquire of its proprietor or his employees for the purpose of investigating the use of copyrighted works by that proprietor without first identifying himself to the proprietor or his employees and making known to them the purpose of the investigation;

2. Collect or attempt to collect a royalty payment or any other fee except as provided in a contract executed in accordance with this section; or

3. Use or attempt to use any unfair trade practice in negotiating with a proprietor, or in retaliation for a proprietor's failure or refusal to negotiate, with respect to a contract for the payment of royalties, including:

a. Charging or collecting a royalty that is unreasonable in comparison to the royalties charged to proprietors of comparable businesses in the same area.

b. Charging or collecting a duplicative royalty from a proprietor whose business is organized as a single business entity and is contained in a single structure, enclosed within a common and uninterrupted wall, regardless of whether any partition exists which subdivides the structure.

(3) CONTRACT REQUIREMENTS.—Each contract for the payment of royalties which is executed, issued, or renewed in this state after July 1, 1995, must:

(a) Be in writing;

(b) Be signed by the parties;

(c) Terminate within 1 year, subject to annual automatic renewal upon the same terms and conditions unless either party thereto provides written notice at least 45 days before the termination date of the contract of its desire to terminate the contract or to change its terms or conditions; and

(d) Include at least the following information:

1. The proprietor's name and business address and the name and location of each business to which the contract applies;

2. The name and address of the performing rights society authorized to act on behalf of copyright owners being paid royalties under the contract;

3. The following notice in bold print: "Within 72 hours after a request from the licensee, (. . .the society . . .) will provide the licensee with a listing of the copyright owners represented by (. . .the society . . .) and the works licensed under the contract." At the option of the licensee, the listing shall be provided through electronic means;

4. The duration of the contract; and

5. The schedule of rates and terms of the royalties to be collected under the contract, including any sliding scale or schedule for any increase or decrease of those rates for the duration of that contract, and the basis upon which those rates were calculated.

6. The following notice in bond print: "This agreement does not fully protect you under the Federal copyright laws. To assure your protection, you also must have a separate agreement with the copyright owner or the performing rights society with which the copyrighted work is listed. Performing rights societies include, but are not limited to, the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc., and SESAC, Inc."

(4) VERIFICATION SERVICE.—In addition to providing the name of the copyright owner and title of the copyrighted work requested under subparagraphs (2)(a)3. and (3)(d)3., the performing rights society shall establish an electronic or telephonic system that allows, at a minimum, each proprietor to request and receive verification for up to 50 works each day which are licensed under the contract with the performing rights society. The verification service shall be provided at no additional cost to the proprietor.

(5) CIVIL PENALTIES.—Any person who violates a provision of this section is liable for a civil penalty of not less than $1,000 nor more than $7,500 for a first offense, and not less than $2,000 nor more than $15,000 for a second and any subsequent offense. This civil penalty may be recovered in any action brought under this section by the Department of Agriculture and Consumer Services, and shall be deposited into the General Revenue Fund unallocated.

(6) CIVIL REMEDIES.—

(a) A proprietor may bring an action or assert a counterclaim, in a court of competent jurisdiction, against a performing rights society to enjoin any violation of this section and to recover any damages sustained by the proprietor as a result of a violation of this section. The proprietor may also petition the court to terminate a contract that violates this section, and the court in its discretion may void the contract. If successful, the proprietor may recover threefold the damages sustained by him, together with reasonable attorney's fees, filing fees, and reasonable costs of suit, in addition to any other legal or equitable relief.

(b) The rights, remedies, and prohibitions under this section are in addition to any other right, remedy, or prohibition under common law, federal law, or the laws of this state, and this section does not abrogate or impair any such common law or statutory right, remedy, or prohibition.

(7) APPLICATION.—This section applies only to performing rights societies. This section does not apply to a contract between a performing rights society and a broadcaster that is licensed by the Federal Communications Commission. If a performing rights society is licensed by the Federal Communications Commission, this section applies to a contract between that performing rights society and a proprietor as otherwise provided in this section. This section does not apply to conduct engaged in for purposes of enforcing s. 540.11(3)(a).

Section 2. This act shall take effect July 1, 1995.

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 copyrights; creating s. 501.93, F.S.; prohibiting a performing rights society from contracting with the proprietor of a business for the payment of royalties unless certain conditions and requirements are met; providing definitions; prohibiting certain actions by a performing rights society; specifying requirements for contracts for payment of royalties; making the contracts voidable in specified circumstances; requiring a performing rights society to provide a verification service; providing civil penalties and remedies; providing for application; providing an effective date.

Senator Bankhead moved the following substitute amendment:

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

Section 1. Section 501.93, Florida Statutes, is created to read:

501.93 Copyright owners and performing rights societies.—

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

(a) "Business" means a retail establishment, restaurant, bar, lounge, sports or entertainment facility, or any other similar place of business or any professional office located in this state in which the public assembles and in which nondramatic musical works are performed, broadcast, or otherwise transmitted for the enjoyment of the members of the public there assembled.

(b) "Copyright owner" means the owner of a copyright of a nondramatic musical work, other than a motion picture or other audiovisual work, recognized and enforceable under the copyright laws of the United States pursuant to Title 17 of the United States Code, Pub. L. No. 94-653, 17 U.S.C. s. 101 et seq.

(c) "Performing rights society" means any business entity or association that licenses the public performance of nondramatic musical works on behalf of copyright owners, including, without limitation, the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc., and SESAC, Inc.

(d) "Proprietor" means the owner of a business.

(e) "Royalty" means the fee payable by a proprietor to a performing rights society for the public performance of a nondramatic musical work.

(2) PROHIBITED ACTIVITIES.—

(a) A performing rights society may not enter into, or offer to enter into, a contract for the payment of royalties by a proprietor unless at the time of the offer, or any time thereafter, but no later than 72 hours before the execution of that contract, it provides to the proprietor, in writing, all of the following:

1. A schedule of the rates and terms of royalties under the contract and the basis upon which those rates were calculated.

2. Notice that the performing rights society will make available, upon written request of any proprietor, the most current available listing of the copyrighted works in the society's repertory, provided that such notice shall specify the means by which the society shall provide this information. A society may charge a proprietor requesting such a list no more than the costs incurred in responding to the request.

3. Notice that the performing rights society has annually filed for public inspection with the Department of State:

a. A certified copy of each form of contract or agreement that provides for the payment of royalties from a proprietor of any business in this state to a performing rights society;

b. The most current available list of the performing rights society's members or affiliates; and

c. The most current available listing of the copyrighted works in the society's repertory.

4. Notice that the agreement complies with federal law and orders of courts having appropriate jurisdiction regarding the rates and terms of royalties and the circumstances under which licenses for rights of public performance are offered to any proprietor.

5. Notice that the proprietor is entitled to the information contained in this paragraph, and that the failure of the performing rights society to provide that information is unlawful.

(b) A performing rights society, or any agent or employee thereof, may not:

1. Enter onto the premises of a proprietor's business for the purpose of discussing or inquiring about a contract for the payment of royalties with the proprietor or his employees, without first identifying himself to the proprietor or his employees and making known to them the purpose of the discussion or inquiry;

2. Collect or attempt to collect a royalty payment or any other fee except as provided in a contract executed in accordance with this section; or

3. Use or attempt to use any unfair trade practice in negotiating with a proprietor, or in retaliation for a proprietor's failure or refusal to negotiate, with respect to a contract for the payment of royalties.

4. Charge or collect a duplicative royalty from a proprietor whose business is organized as a single business entity and is contained in a single structure, enclosed within a common and uninterrupted wall, regardless of whether any partition exists which subdivides the structure.

(3) CONTRACT REQUIREMENTS.—Each contract for the payment of royalties between a proprietor and a performing rights society which is executed, issued, or renewed in this state after October 1, 1995, must:

(a) Be in writing;

(b) Be signed by the parties; and

(c) Include at least the following information:

1. The proprietor's name and business address and the name and location of each business to which the contract applies.

2. The name and address of the performing rights society authorized to act on behalf of copyright owners being paid royalties under the contract.

3. The duration of the contract.

4. The schedule of rates and terms of the royalties to be collected under the contract, including any sliding scale or schedule for any increase or decrease of those rates for the duration of that contract, and the basis upon which those rates were calculated.

5. The following notice in bold print: "This agreement does not fully protect you under the federal copyright laws. To ensure your protection, you also must have a separate agreement with the copyright owner or the performing rights society with which the copyrighted work is listed. Performing rights societies include, but are not limited to, the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc., and SESAC, Inc."

(4) VERIFICATION SERVICE.—In addition to providing the information required under subparagraph (2)(a)2., the performing rights society shall make available, upon request by any proprietor, by electronic means or otherwise, information as to whether specific copyrighted musical works are in its repertory.

(5) CIVIL REMEDIES AND PENALTIES.—Any person who suffers a violation of this section may bring an action to recover actual damages and reasonable attorney's fees, to seek an injunction, to seek a civil penalty not to exceed $1,000 per violation, or to seek any other remedy available at law or in equity. The Department of Legal Affairs may bring an action in circuit court for temporary or permanent injunctive relief to enforce the provisions of this section and may seek other appropriate relief, including a civil penalty not to exceed $1,000 for each violation to be utilized for restitution to injured proprietors for damages, court costs, and reasonable attorney's fees.

(6) APPLICATION.—This section applies only to performing rights societies. This section does not apply to a contract between a performing rights society and a broadcaster that is licensed by the Federal Communications Commission. If a performing rights society is licensed by the Federal Communications Commission, this section applies to a contract between that performing rights society and a proprietor as otherwise provided in this section. This section does not apply to conduct engaged in for purposes of enforcing s. 540.11(3)(a).

Section 2. This act shall take effect July 1, 1995.

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 copyrights; creating s. 501.93, F.S., relating to copyright owners and performing rights societies; prohibiting a performing rights society from contracting with the proprietor of a business for the payment of royalties unless certain conditions and requirements are met; providing definitions; prohibiting certain actions by a performing rights society; specifying requirements for contracts for payment of royalties; requiring a performing rights society to provide a verification service; providing civil remedies and penalties; providing for application; providing an effective date.

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

Amendment 2A—On page 5, line 24, strike "Agriculture and Consumer Services" and insert: Legal Affairs

Amendment 2 as amended was adopted.

On motion by Senator Bankhead, by two-thirds vote **SB 2242** 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

On motions by Senator Burt, by two-thirds vote—

HB 2055—A bill to be entitled An act relating to local government; amending s. 125.56, F.S.; revising provisions relating to adoption of a building code by a county; including amendment of a code; revising activities to which a code applies; revising notice requirements; amending s. 125.66, F.S.; revising provisions relating to adoption of ordinances by counties; revising notice requirements for the regular enactment procedure; revising the effective date; revising application of the emergency enactment procedure and requirements with respect thereto; specifying the procedures and requirements, including notice and hearing requirements, for enactment of ordinances and resolutions that change the actual list of permitted, conditional, or prohibited uses within a zoning category or change the actual zoning map designation of a parcel; providing a limitation on certain challenges to an ordinance's or resolution's validity and providing requirements with respect thereto; specifying that notice procedures are minimum requirements; validating the procedures used for certain county and municipal ordinances and resolutions; amending s. 255.20, F.S.; revising an exemption from requirements relating to public construction projects; revising the notice requirement for a finding by a local government that it is in the public's best interest to use its own services, employees, and equipment; amending s. 166.041, F.S.; revising provisions relating to adoption of ordinances by municipalities; revising the types of ordinances and resolutions that cannot be adopted as an emergency ordinance or resolution; specifying the procedures and requirements, including notice and hearing requirements, for adoption of ordinances that change the actual list of permitted, conditional, or prohibited uses within a zoning category or change the actual zoning map designation of a parcel; providing a limitation on certain challenges to an ordinance's or resolution's validity and providing requirements with respect thereto; specifying that notice procedures are minimum requirements; amending s. 163.3164, F.S.; revising the definition of "public notice" under the Local Government Comprehensive Planning and Land Development Regulation Act; specifying that notice procedures are minimum procedures; amending ss. 163.3171 and 163.3174, F.S.; removing references to "due" public notice in provisions relating to joint exercise of powers under the act and local planning agency hearings on plans; amending s. 163.3181, F.S.; revising notice requirements relating to a local government's decision regarding a publicly financed capital improvement project; amending s. 163.3184, F.S.; revising notice and hearing requirements for public hearings on proposed comprehensive plans or plan amendments; amending s. 163.3187, F.S.; revising notice requirements for plan amendments directly related to small scale developments; deleting authority of the state land planning agency to establish alternative public notice procedures for such amendments; amending ss. 163.346 and 341.347, F.S., to conform; amending s. 163.385, F.S., relating to revenue bonds; revising language relating to issuance of refunding bonds; amending s. 255.22, F.S.; removing provisions relating to reconveyance of lands conveyed on or after October 1, 1988, to a municipality or county and not used for the purposes specified, and to the retroactive application of such provisions; providing an effective date.

—a companion measure, was substituted for **CS for SB 1034** and by two-thirds vote read the second time by title. On motion by Senator Burt, by two-thirds vote **HB 2055** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—2

On motions by Senator Silver, by two-thirds vote—

HB 2455—A bill to be entitled An act relating to the regulation of pari-mutuel wagering; amending s. 550.002, F.S.; revising language relating to the terms "breaks," "harness racing," "intertrack wager," "takeout," and adds a definition for "net pool pricing"; amending s. 550.01215, F.S.; authorizing the division to authorize changes in racing dates under certain circumstances; allowing conversion of a pari-mutuel wagering permit; amending s. 550.0251, F.S., relating to disposition of money from administrative fines; amending s. 550.0054, F.S.; deleting reference to the commission; deleting reference to the Department of Law Enforcement with respect to fingerprints; amending s. 550.09511, F.S., relating to payment of tax on intertrack handle; allowing jai alai permitholder to conduct intertrack wagering when licensed by the division; repealing subsection (3) of section 550.09511, F.S., relating to inactive jai alai permits escheating to the state, repealing subsection (6) of section 550.09511, F.S., relating to the July 1, 1998, sunset; repealing s. 550.09513, F.S.; relating to taxes and fees with respect to jai alai permitholders beginning casino-type gaming activities; amending s. 550.105, F.S.; revising language with respect to occupational licenses of racetrack employees; providing reference to jai alai frontons; providing reference to restricted and unrestricted licenses; providing for access to certain areas; providing for the application of the section; authorizing the division to place conditions upon certain licenses or licensees; amending s. 550.1155, F.S.; providing a time limit on license suspensions; amending s. 550.155, F.S.; requiring permitholders to inform the patrons as to the takeout currently being applied to handle at the facility; amending s. 550.2614, F.S.; correcting a cross reference; providing for membership in the horsemen's association; amending s. 550.2625, F.S.; deleting references to commission; amending s. 550.334, F.S.; correcting cross references; deleting reference to the commission; deleting references to administrative penalties; deleting reference to certain quarter horse races; amending s. 550.3551, F.S.; clarifying references to statutes regarding taxation; providing reference to jai alai frontons; allowing a permitholder to modify its takeout percentage for simulcast wagering when net pool pricing is used; amending s. 550.495, F.S.; revising language with respect to totalisator licensing; amending s. 550.505, F.S.; deleting reference to the commission; repealing s. 550.615(1), F.S., relating to greyhound permitholders conducting intertrack wagering and purse requirements; and providing an effective date.

—a companion measure, was substituted for **CS for SB 2234** and by two-thirds vote read the second time by title. On motion by Senator Silver, by two-thirds vote **HB 2455** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—1

On motion by Senator Rossin, by two-thirds vote **HB 1441** was withdrawn from the Committees on Community Affairs; Judiciary; and Ways and Means.

On motion by Senator Rossin—

HB 1441—A bill to be entitled An act relating to local government; amending s. 162.09, F.S.; authorizing a code enforcement board to impose a fine not exceeding $10,000 per violation if the violation is irreparable or irreversible; amending s. 255.22, F.S.; removing provisions relating to reconveyance of lands conveyed on or after October 1, 1988, to a municipality or county and not used for the purposes specified, and to the retroactive application of such provisions; providing an effective date.

—a companion measure, was substituted for **SB 1590** and read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 1441** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—3

On motion by Senator Grant, by two-thirds vote **CS for HB 1229** was withdrawn from the Committees on Banking and Insurance; Commerce and Economic Opportunities; and Ways and Means.

On motion by Senator Grant—

CS for HB 1229—A bill to be entitled An act relating to insurance; amending s. 624.124, F.S.; referring to a definition of "motor vehicle" for purposes of the section; creating s. 624.129, F.S.; exempting from the Insurance Code certain recovery and location services; providing an effective date.

—a companion measure, was substituted for **SB 1704** and read the second time by title. On motion by Senator Grant, by two-thirds vote **CS for HB 1229** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motion by Senator Bankhead, by two-thirds vote **CS for HB 745** was withdrawn from the Committee on Transportation.

On motion by Senator Bankhead—

CS for HB 745—A bill to be entitled An act relating to designations of transportation facilities; designating the new bridge over North River from the City of St. Augustine mainland to the Vilano Beach, Surfside, and North Beach areas as a part of State Road A1A the "Francis and Mary Usina Bridge"; directing the Department of Transportation to erect suitable markers; designating the new highway patrol station in the City of DeLand the "Trooper Gerald Creston Thomas Highway Patrol Station"; directing the Department of Highway Safety and Motor Vehicles to provide suitable markers; designating Fernandina Harbor Marina the "Marine Welcome Station" for the state; designating the First Coast Highway, Florida A1A, from Nassau County through St. Johns County as the "Buccaneer Trail"; directing the Department of Transportation to erect suitable markers; providing an effective date.

—a companion measure, was substituted for **SB 946** and read the second time by title. On motion by Senator Bankhead, by two-thirds vote **CS for HB 745** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

On motion by Senator Silver, by two-thirds vote **CS for HB 2421** was withdrawn from the Committees on Regulated Industries; and Ways and Means.

On motion by Senator Silver—

CS for HB 2421—A bill to be entitled An act relating to the regulation of alcoholic beverages; amending s. 20.165, F.S., relating to the powers and authority assigned to employees of the Division of Alcoholic Beverages and Tobacco; providing for the powers of division employees who are law enforcement officers; repealing s. 561.07, F.S., relating to the powers and authority assigned to law enforcement officers of the Division of Alcoholic Beverages and Tobacco; amending s. 561.14, F.S., relating to the authority of licensed beverage manufacturers; amending s. 561.17, F.S.; providing for the authority of the Department of Agriculture and Consumer Services with respect to certification of sanitary requirements of licensed premises; amending s. 561.181, F.S., relating to the issuance of temporary initial beverage licenses; providing for the period of validity; amending s. 561.19, F.S., relating to issuance of an inactive license when no location has been specified; deleting a provision with regard to the transfer of the notice of selection for a license; amending s. 561.27, F.S.; revising provisions relating to renewal of an expired license; amending s. 561.29, F.S.; revising provisions relating to violations providing cause for discipline of licensees, the effective date of orders of suspension or revocation, and the authority of the Department of Agriculture and Consumer Services with respect to certification of sanitary requirements of licensed premises; amending s. 561.32, F.S., relating to transfers of licenses; removing a time limitation on the right to transfer a license; waiving a transfer fee and delinquent penalties under certain circumstances; amending s. 561.331, F.S.; revising time periods for validity of temporary licensure upon application for transfer, change of location, or change of type or series; amending s. 561.65, F.S., relating to a mortgagee's interest in a license; providing fees; providing for expiration of lien or security interest; amending s. 563.06, F.S.; amending requirement for stamp on malt beverage containers; allowing submission of facsimile of imprint to division for approval; amending s. 565.02, F.S.; creating a special license classification for marine exhibition parks; providing an effective date.

—a companion measure, was substituted for **SB 2354** and read the second time by title. On motion by Senator Silver, by two-thirds vote **CS for HB 2421** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—3

On motion by Senator Forman, by two-thirds vote **CS for HB 237** was withdrawn from the Committees on Commerce and Economic Opportunities; Health and Rehabilitative Services; and Health Care.

On motion by Senator Forman—

CS for HB 237—A bill to be entitled An act relating to drug-free workplace requirements; amending s. 112.0455, F.S.; prescribing qualifications of laboratories that analyze specimens; requiring the Agency for Health Care Administration to adopt rules relating to the drug testing of urine, hair, blood, and other body specimens; amending s. 440.102, F.S.; prescribing qualifications of laboratories that analyze specimens; requiring the Department of Labor and Employment Security to adopt rules relating to the drug testing of urine, hair, blood, and other body specimens; providing an effective date.

—a companion measure, was substituted for **SB 300** and read the second time by title. On motion by Senator Forman, by two-thirds vote **CS for HB 237** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—2

On motions by Senator Dantzler, by unanimous consent—

CS for CS for HB 1523—A bill to be entitled An act relating to taxation; amending s. 125.0104, F.S., relating to the local option tourist development tax; authorizing additional uses for the additional 1-percent tax which may be levied to pay debt service on bonds issued to finance construction or renovation of a professional sports franchise facility; revising the types of facilities qualified for such funding; amending s. 125.35, F.S.; exempting a county from bid requirements with respect to a lease of a professional sports franchise facility financed by tourist development tax revenues or tax revenues pursuant to s. 212.20; amending s. 212.05, F.S., which provides for a tax on the use of coin-operated amusement machines; providing that when the proprietor of the business where a machine is located does not own the machine he is deemed the lessee and operator, and providing responsibility for payment of taxes; requiring operators to obtain and display an identifying certificate in their place of business rather than affix an identifying device to each machine; providing requirements for such certificates and for application therefor; providing for fees; removing provisions relating to issuance of identifying devices by tax collectors and establishment of a toll-free number to report violations; providing a penalty for failure to display the certificate; providing a penalty for placement of such machines by lessees in a place of business without such certificate; amending ss. 509.032 and 561.1105, F.S., to conform; amending s. 159.803, F.S.; providing a definition; amending s. 159.804, F.S.; revising certain percentages with respect to allocation of the state volume limitation on private activity bonds; amending s. 159.807, F.S.; revising certain provisions for issuance of written confirmations for issues of private activity bonds by agencies; amending s. 159.8081, F.S.; limiting the effect of a written confirmation of the director of the Division of Bond Finance under certain circumstances; creating s. 159.8083, F.S.; providing for an allocation pool for Florida First Businesses; specifying uses of such pool; providing procedures; providing requirements; amending s. 159.809, F.S.; revising provisions providing for recapture of unused amounts of certain initial allocations of private activity bonds; providing for adding certain portions of initial allocations to the Florida First Business allocation pool; providing an effective date.

—was taken up out of order and by two-thirds vote read the second time by title.

Senator Williams moved the following amendment which was adopted:

Amendment 1—On page 1, line 13 of House Amendment 1 and on page 1, line 12 of House Amendment 2, strike "*$24.50*" and insert: *$30*

On motion by Senator Dantzler, by two-thirds vote **CS for CS for HB 1523** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

RECONSIDERATION

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

SB 2454—A bill to be entitled An act relating to prescription drugs; amending s. 499.033, F.S.; requiring a prescription to dispense products containing ephedrine or its salts or isomers; providing for the Department of Health and Rehabilitative Services to determine whether to exempt certain products that contain the drug "ephedrine" from such requirement; providing criteria; exempting certain products from such requirement; providing an effective date.

—passed as amended this day.

On motions by Senator Myers, the rules were waived and by two-thirds vote—

CS for HB 1385—A bill to be entitled An act relating to prescription drugs; amending s. 499.033, F.S.; revising standards for the prescription of ephedrine; amending s. 499.0054, F.S., revising advertising standards for ephedrine; amending s. 499.0057, F.S.; correcting a cross reference; amending s. 893.03, F.S., expanding drugs included in the schedule of controlled substances; amending s. 893.135, F.S.; prescribing first-degree-felony penalties for offenses involving trafficking in oxycodone, hydrocodone, hydromorphone, and derivatives of them and of morphine and opium; providing an effective date.

—a companion measure, was substituted for **SB 2454** and by two-thirds vote read the second time by title. On motion by Senator Myers, by two-thirds vote **CS for HB 1385** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—2

On motion by Senator Thomas, by unanimous consent—

HB 2553—A bill to be entitled An act relating to the use of fuel taxes; authorizing the transfer and use of legally restricted fuel taxes by counties having a population of 10,000 or less for unrestricted purposes for all fiscal years prior to and through fiscal year 1994-1995; providing an effective date.

—was taken up out of order. On motions by Senator Thomas, by two-thirds vote **HB 2553** was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

On motions by Senator Burt, by two-thirds vote **CS for HB 1683** was withdrawn from the Committees on Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Burt, by unanimous consent—

CS for HB 1683—A bill to be entitled An act relating to disposition of federal funds; amending s. 14.23, F.S.; clarifying legislative intent; amending s. 216.102, F.S.; requiring state agencies and the judicial branch to record the receipt of federal funds; providing requirements for access to such funds; providing additional duties of the Comptroller relating to financial statements; creating s. 216.103, F.S.; requiring agencies receiving federal funds to designate a coordinating official; requiring the creation and maintenance of an inventory of certain programs; requiring a process for collecting, assimilating, and evaluating information on federal funds received; requiring a process to identify and monitor opportunities relating to federal grant-in-aid programs; amending s. 216.151, F.S.; requiring the Executive Office of the Governor to make a detailed study of state agencies for certain purposes; requiring the office to consult with the Office of State-Federal Relations for certain purposes; amending s. 216.212, F.S.; requiring the Comptroller and the Executive Office of the Governor to develop and maintain certain compatibility measures; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Burt, by two-thirds vote **CS for HB 1683** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—2

The Senate resumed consideration of—

SB 876—A bill to be entitled An act relating to education; authorizing individual district school boards by resolution to allow invocation or benediction at specified secondary-school-related events; providing legislative intent; providing an effective date.

—which had been considered this day.

Senator Williams moved the following amendment which was adopted:

Amendment 1—On page 1, line 12, after "resolution" insert: by a vote of at least a majority plus one of the school board

SENATOR DUDLEY PRESIDING

Senator Wexler moved the following amendments which failed:

Amendment 2—On page 1, line 22, after "nature" insert: and that references to God or a Supreme Being shall not be prohibited in such invocation or benediction

The vote was:

Yeas—14 Nays—19

Amendment 3—On page 1, line 20, following the period (.) insert: School officials shall establish and enforce procedures to ensure that students are selected fairly to give an invocation or a benediction.

Amendment 4—On page 1, strike all of lines 17 and 18 and insert:

(1) That the use of an invocation or benediction shall be at the discretion of a majority of the students to be determined by an election held by the students.

Senator Silver moved the following amendments which failed:

Amendment 5—On page 1, line 13, strike "a secondary-school commencement exercise,"

Amendment 6—On page 1, line 13, after "benediction" insert: , not to exceed 1 minute in length,

Amendment 7—On page 1, strike all of lines 13-15 and insert: benediction at a high-school-optional-only event. The resolution

Amendment 8—On page 1, line 22, after the period (.) insert: The district school board shall review all invocations or benedictions to insure they are nonsectarian or nonproselytizing.

Senator Williams moved that the rules be waived and that **SB 876** as amended be read the third time by title. The motion was adopted by the required two-thirds vote. The vote was:

Yeas—26 Nays—12

THE PRESIDENT PRESIDING

SB 876 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—28 Nays—10

MOTION

On motion by Senator Thomas, the following remarks were ordered spread upon the Journal:

Senator Williams: Thank you, Mr. President. This is the Prayer Bill that we had begun to discuss yesterday. The House passed House Bill 505 and I move we take it up in lieu of the Senate Bill.

Senator Wexler: I ordinarily would not make this motion; however, not even considering the lateness of the hour, let me, if I may, Senators, explain what the House of Representatives did on their so-called Prayer Bill. Subsection 3 of the bill said that an invocation or benediction shall be nonsectarian or nonproselytizing in nature. They struck it out. For two months now, in fact for a year now, we've been hearing that this will be a nonsectarian prayer. That, although many of us may object, certainly isn't offensive. But we found out a couple of moments ago what the sponsors of the bill in the House true intent was. That is not to have language in the bill that prevented us from having a sectarian prayer, and that is why I object to bringing up the House Bill.

Senator Williams: Mr. President, I certainly understand what Senator Wexler is attempting to do. The bills are very similar. The nonproselytizing and nonsectarian wording was removed from the House Bill for a specific reason involving the constitutionality of the prayer. Let me refer you to a case—"Lee v. Wiseman" heard by the United States Supreme Court. What the Supreme Court prohibited can be summed up as follows: school officials cannot direct that prayer be a part of a public school's graduation ceremony. The real important part is that a school board cannot tell children how to pray or how not to pray. If you put the words nonproselytizing or nonsectarian in there, it is believed by some constitutional attorneys that that makes it unconstitutional. That was the reason why it was done. It passed out of the House with 77 votes. I think your point is weak, Senator Wexler, but you certainly have the right to raise that. I would like to inquire of the President, though, if we fail to bring up the House Bill, can I revert back and take up the Senate Bill?

Mr. President: We are on the Senate Bill. If the Senate does not vote to take up the House Bill, then we will still be on the Senate Bill.

Senator Wexler: Before we go even farther in the debate—I know Senator Williams joins me—for everybody's purposes, this is not a personal debate. This is a debate on a very emotional issue. People have strong feelings, but this is not a personal thing.

I would understand Senator Williams' explanation if this was a Supreme Court case that the decision was just handed down this week or last week or in the last month. Senators, this is a Supreme Court case which is being referred to, that I believe is about two and a half years old. There is a reason this bill wasn't drafted this way to begin with. If it were, every editorial board in this state for months would have been proving to the people of Florida exactly what it's all about—support for a sectarian prayer—support for a prayer of a particular sect of people.

Senator Williams: Mr. President, I withdraw the motion to go to House Bill 505 and we will work off of Senate Bill 876.

Senator Turner: Senators, there is a big difference between a child privately saying a prayer and the school organizing a prayer or a time to pray. I do recognize that there are some permissible religious activities in public schools. Students say grace before meals, and some even read the Bible between classes or at other quiet moments. They can do this, so long as it is not coercive to others, and does not carry any message of official endorsement by school officials or faculty.

Nevertheless, I am opposed to organized school prayer, but this does not reflect hostility to religion. I am simply of the belief that religion is too important and too precious to permit any form of state intervention. Those who seek to intrude organized prayer into America's public schools do not seek to intrude a minority's prayer.

This proposed legislation mirrors Jones v. Clear Independent School Dist., 977 F.2D 963 (5th Cir. 1992), a Fifth Circuit Court of Appeals case that held constitutional a school district resolution permitting high school seniors to choose student volunteers to deliver a non-sectarian and non-proselytizing invocation at graduation. However, the U.S. Supreme Court has not decided the issue proposed by Senate Bill 876—The Prayer Bill; that is whether or not an individual school board by resolution may allow an invocation or benediction at specified secondary school related events. I believe this legislation is unconstitutional. The Ninth Circuit U.S. Court of Appeals has ruled in Harris S v. Joint School District No. 241, 41 F.3D 447 (9th Cir. 1994) that a benediction similar to the type proposed by this legislation would violate the establishment clause of the First Amendment of the United States Constitution. In the Harris case, the school district took a number of steps to distance itself from the decision whether to have a graduation invocation. This is similar to the proposed legislation found in Senate Bill 876. The Ninth Circuit has stated that a similar type of invocation has both state involvement and an obligatory nature to the students' participation in the religious activity taking place at a graduation type ceremony. As for the state involvement, the court held that the school ultimately controls the graduation event.

Graduation is the presentation by the school of diplomas presenting graduation certificates to the students who have fulfilled the requirements of high school for graduation. Therefore, regardless of the fact that the invocation or benediction shall be at the discretion of the students or given by a student volunteer, the fact remains that graduation is a school sponsored event. Generally speaking, such an assembly occurs on school property, at a time scheduled and set by school officials. The fact that the students set the assembly agenda or make decisions as to whether a prayer shall occur or who shall say it is insufficient to distance school officials from what would otherwise be an establishment clause. We cannot absolve ourselves of a constitutional duty by merely delegating our responsibilities to private individuals. Private citizens when acting with government authority must exercise that authority constitutionally. Evans v. Newton, 86 S Ct. 486,488(1966).

Furthermore, in the Harris case the court reasons that the school district's disclaimer on the commencement programs doesn't save the school's practice. The additional factor which was dispositive to the court in Harris was the fact that students were obligated to attend and participate in graduation ceremonies. Therefore, there is a coercive effect in that they will be subjected to the benediction activity taking place at the ceremony by their very presence. The court was not persuaded by the fact that the proposed legislation defines its purpose as providing for the solemnization and memorialization of secondary school events and ceremonies.

The Harris court concluded that solemnization is insufficient to secularize what is objectively and inherently religious. Even if the benediction had a secular purpose of such benediction-type prayers would appear to advance religion. It cannot be argued that the act of praying merely solemnizes an event as opposed to having as its intent and effect the advancement of religion. The court stated that the character of the benediction-type prayer does not change when said at graduation. The court in Harris concluded that the application of the lemon test to this type of student led invocation demonstrates an establishment clause violation. For these reasons, Senate Bill 876 does not appear to withstand a constitutional analysis.

It has been rumored that ever since prayer was removed from schools, public school performance has declined and social ills have increased. It is true that some indices of school performance have decreased, but absolutely no evidence exists linking these developments to the school prayer issue. In fact, the drop has been caused by wholly unrelated factors.

Let's be truthful with ourselves. We all know that this country is confronting critical problems such as crime, drugs, homelessness, etc. Therefore, it's simplistic thinking to blame every societal problem on a lack of school prayer. It should also be pointed out that not all indicators of American society have declined since 1963 which is the year the Supreme Court removed prayer from public schools.

The prayer and bible reading decision did cause two clear cut results: families gained greater religious liberty and the right to decide which religious exercises their children participate in, and church and state separation was strengthened.

As we look at the holistic picture of the school prayer issue, there are many myths about separation of church and state.

It is true that the phrase "separation of church and state" does not appear in the Constitution, but that doesn't mean the concept isn't there. Take Thomas Jefferson and James Madison for example, both of these men used the phrase and Madison was considered the Father of the Constitution.

But it was inevitable that some convenient term should come into existence to verbalize a principle so clearly and widely held by the American people. To bring the point even closer home, who would deny that religious liberty is a constitutional principle? Yet, that phase, too, is not in the Constitution. The universal acceptance which all these terms, including "separation of church and state", have received in America would seem to confirm rather than disparage their reality as basic American democratic principles.

Jefferson and Madison held an expansive view of the first amendment, arguing that church-state separation would protect both religion and government. These two men did not see church-state separation as an either/or proposition or argue that one institution needed greater protection than the other. Madison argued that establishment was no friend to religion or the state. He insisted that civil society would be hindered by establishment, charging that attempts to enforce religious beliefs by law would weaken government.

And, I conclude by saying to have the government dictate to American children when and how they should pray is not the government's responsibility.

Allowed religious activities in the public school—graduation prayer—baccalaureate services, which are not part of the official graduation cere-

monies, are privately sponsored and led, take place off school grounds and are voluntary may constitutionally include prayers and religious sermons. Schools must not endorse the baccalaureate services.

When valedictorians are given the honor of speaking on a topic of their graduation ceremony, they may speak on a religious topic or offer a prayer. Since the school is in no way promoting or sponsoring this religious activity, it is distinguishable from cases where the school organizes or allows the student body to organize a graduation prayer.

School prayer—students have the right to engage in voluntary individual prayer which is non-coercive and does not substantially disrupt the school's educational mission and activities. For example, all students have the right to say a blessing before eating a meal. Furthermore, nobody can stop students, or any one else, from silently communicating with whichever God they believe in whenever they desire. School officials must simply not promote or discourage a student's personal prayer.

See you at the pole—students have the right to meet at the flagpole before the school day to engage in prayer. These meetings must be student-initiated and non-coercive. Furthermore, teachers and faculty may not participate in the prayer.

I urge you to vote against this bill.

Senator Williams: This is an extremely serious matter and I would like to see it done that way. I am ready to vote. I am not going to make any more long speeches and I would like to move the bill. I know that Senator Wexler said he had a couple of comments he wanted to get on the record and I understand that.

Senator Wexler: We have debated to a certain degree the constitutional issues. We have debated to a certain degree what some of the opponents of the bill find as faults in the way the bill is drafted. I would like to spend a very small amount of time trying to convey just one message. I understand that there are many people in this state, in this country, that firmly believe that one of the ways in which to eliminate or relieve some of the problems, the social ills in this country, is by incorporating prayer into the public school. I agree wholeheartedly that one of the ways in which to resolve some of our societal problems is, in fact, through religion. At the same time, what I find so personally frustrating is that in the context of this debate, at times it seems lost to me that some very, very reasonable, very, very well-meaning people don't either appreciate or understand the feeling of somebody who is a minority.

As well intentioned as this bill is, and now with the language, it is nonsectarian. But, as sure as the sun will rise tomorrow—at a football game, at a graduation ceremony—if this bill passes there will be prayers said that thousands of students in this state cannot participate in. To think otherwise is somewhat unrealistic.

I'll use our experience here in the Senate—very well-meaning people. We have prayer from wonderful people, from different faiths many times. Sometimes, more often than not, a prayer is said that some of us cannot participate in. We are all adults. We can all deal with it, but kids are kids. They should not, in my view, have to be uncomfortable in their school. Unfortunately, maybe nine out of ten times it won't be, but that would be the result of this bill as to children who are of a minority religious status.

Senator Forman: I have, always, all my life, believed in the separation of church and state. Even if my side would lose this vote, and this issue would bring out the best in people—I would say, what the heck—I guess I just had a philisophical difference and I lost. But I have seen this issue come up many, many times in the forty years that I have lived in this state that I love. The discussion of it and the debate of it do not necessarily bring out the best in people. Sometimes they bring out negative feelings in people and bring out the worst feelings in people.

When you really come down to it, there are a lot of sincere people who think that prayer would help. But when you come down to it, it is really the philosophy of one group dominating the philosophy of another group.

I know if this law would pass, it would be signed into law and there would be prayer in school in Broward County. I know my daughters would walk out and not participate. Maybe people would think they are different, but they will be tough enough to withstand that too. This idea is wrong and it shouldn't be here. Church and state should be separated in this country and in this state.

Senator Weinstein: First of all, on a personal note, when we finally pass the budget next week, it will complete my 13th session of the Florida Senate. I would really like to thank all of you for all the courtesy and the cooperation and the wonderful times we have had debating bills and working together on many different issues.

Sometimes we disagree on an issue, as Senator Williams and I will do tonight, but at no time have we ever abandoned the comradery, friendship and warmth that we all have felt towards each other. I especially feel that tonight, even with the banter and Senator Turner reading his speech.

I was going to read the Jager case tonight. I decided not to do that for several reasons. Number one, I think you have all learned and read a great deal about the prayer issue. Number two, I do not mean in any way to minimize this issue because for me personally this is a very difficult time. I have to tell you that I believe that we live in the greatest country on earth. The reason we do is because some brilliant people over 200 years ago wrote a constitution. When they wrote that constitution, they searched their hearts and they searched their souls—these were religious people, these were all very religious people—and they decided that for this great nation to go forward, we would have separation of church and state.

Let me tell you something very interesting. At the turn of this century only two countries on the face of the earth will have the same government that they started with at the beginning of the century—the United States and Great Britain. Our great nation endures because of our Constitution. Our Constitution set forth that we shall not establish a religion.

My fear is that this bill will establish religion within our schools. I don't think there is anything wrong with a student quietly praying. I can tell you, personally, that I probably never took a math test in high school that I didn't say a small prayer because I needed it to get passed that math exam. But, I can also tell you that to have an organized prayer at a graduation, at a sporting event, you will be taking some of the students who participate at that sporting event or at that graduation and say—we are not going to let you participate in a way that you can enjoy this proceeding because you are going to be different—whether you be a Jewish student, a Moslem student, a Hindu student, Christian student—whatever the type of student—if certain students decide to have a certain type of prayer, these students will not be able to feel that they are fully participating.

This is a very tough issue for many of you in this Senate. I recognize that we all come from diverse districts around this great state. I recognize that each of us has to reach deep down in our heart. There is an overwhelming and prevailing thought tonight in my mind. That is, to honor the founders of our Constitution, we should keep our deeply felt religious beliefs separate from what we do in our public institutions.

No one wants to take away the right of people to attend their churches, their synagogues—for families to sit and pray and give thanks for the food they eat, for the benefits that they enjoy. Nobody wants to ever take away the religious freedom that we are blessed with in this great nation. At the same time, my view, my feeling, is that we should not have an establishment of religion. The founders of our nation felt that way and I urge you to feel that way again tonight.

Senator Silver: I just happen to believe, in all the other arguments that have been proffered here tonight, that this country is based upon freedom. It is based upon a freedom to pray and a freedom not to pray. It's based on a right to believe in a god and a right not to believe in a god. I pray to God. There are some that don't choose to pray at all. There are some that choose not to believe in God. I don't agree with that but that is what America is all about—the right of freedom to do what people want to do. Thus, I would oppose this bill.

Senator Williams: I think we understand it. There is no need for me to review it again. I believe the people of Florida would be proud of the Senate tonight in the way we have all conducted ourselves on an issue that is emotional and somewhat volatile. I thank you all for your comments and at this point I would just like to move the bill.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Friday, May 5, 1995: HB 1499, CS for CS for HB's 461 and 1885, CS for HB 2533, CS for SB 2282, SB 876, CS for SB 1330, CS for SB 1028, SB 1426, SB 910, SB 834, SB 1024, CS for SB 204, SB 1020, CS for SB 220, SB 980, SB 562, CS for SB 1658, SB 1348, SB 478, SB 1754, SB 1776, CS for SB 1308, SB 1934, SB 486, SB 2542, SB 456, CS for SB 254, CS for SB 2158, SB 2690, SB 1760, SB 1962, SB 312, SB 1014, SB 1830, CS for SB 2140, SB 2568, CS for SB's 2540 and 2682, SB 66, CS for SB 36, CS for SB 2642, SB 2406, SB 1350, SB 458, CS for SB 1044, SB 1732, CS for SB 326, CS for SB 314, SB 1340, CS for CS for SB 544, SB 2242, SB 1390, SB 1484, SB 1704, SB 1482, SB 1542, CS for SB 1772, SB 1590, CS for SB 1034, CS for SB 1404, SB 998, SB 334, CS for SB 196, SB 38, SB 862, SB 1080, SB 1858, CS for SB 2686, CS for SB 1714, CS for SB 786, SB 1696, SB 1800, CS for SB 2016, HB 811, HB 959, HB 967, HB 1039, HB 1051, HB 1053, HB 1055, HB 2471

Respectfully submitted,
Toni Jennings, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Friday, May 5, 1995: HB 441, HB 597, HB 1367, HB 1303, SB 1738, HB 2165, HB 2393, HB 2179, HB 1607, HB 1955, HB 1951, CS for HB 1943, SB 3032, SB 3034, SB 3064, SB 3072, HB 603, HB 653, HB 655, HB 703, HB 1181, HB 1231, HB 1235, HB 1791, HB 1815, HB 2383, HB 2591, HB 2593, HB 1551

Respectfully submitted,
Toni Jennings, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Friday, May 5, 1995: HB 225, HB 601, HB 1273, HB 1281, HB 1293, HB 1601, HB 1643, HB 1945, HB 2021, HB 2183, HB 2185, HB 2565, HB 2733, HB 2735, HB 2739

Respectfully submitted,
Toni Jennings, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Friday, May 5, 1995: HB 1295, HB 1515, HB 1949, HB 2189, HB 2291

Respectfully submitted,
Toni Jennings, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Claims Bill Calendar for Friday, May 5, 1995: SB 264, SB 1736, SB 1744, SB 2988, CS for HB 481, CS for HB 1397, CS for SB 830, CS for SB 990, CS for SB 2436, SB 352, SB 660, SB 1056, SB 1430, CS for HB 455

Respectfully submitted,
Toni Jennings, Chairman

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for HB 495, HB 1273, HB 1281, HB 1293, HB 2183, HB 2189, HB 2291, HB 2735; has passed by the required constitutional three-fifths vote of the membership HB 2447; has passed as amended HB 225, HB 601, CS for CS for HB 725, HB 1299, HB 1383, CS for HB 1385, HB 1407, HB 1439, CS for HB 1505, HB 1515, CS for CS for HB 1523, HB 1601, HB 1643, CS for HB 1675, CS for HB 1797, HB 1949, HB 2055, HB 2077, CS for HB 2119, HB 2185, HB 2369, HB 2445, HB 2455, HB 2475, HB 2553, HB 2565, HB 2609, HB 2733, HB 2739; has adopted HCR 2741, HCR 2743, HCR 2745 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committees on Appropriations and Health Care and Representative Tobin and others—

CS for CS for HB 495—A bill to be entitled An act relating to services provided under Medicaid; amending s. 409.906, F.S.; allowing the Agency for Health Care Administration to pay for certain outpatient dialysis services; amending s. 409.908, F.S.; prescribing the amount of the reimbursement allowed to the provider of certain outpatient dialysis services; replacing the term "department" with the term "agency" to conform to changes made by s. 4 of ch. 94-299, Laws of Florida; providing an effective date.

(Taken up out of order and passed this day.)

By Representative Couch and others—

HB 1273—A bill to be entitled An act relating to the City of Ocoee, Orange County; providing the city commission with the authority, by ordinance and without referendum, to amend the city's municipal charter, to provide for new election dates for municipal elections and to further amend the city's municipal charter to provide for new beginning dates for terms of office and to provide for extended or shortened terms for incumbents to coincide with such new election dates; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Couch and others—

HB 1281—A bill to be entitled An act relating to the West Orange Healthcare District; amending sections 14 and 15 of chapter 26066, Laws of Florida, 1949, as amended; limiting the authorized rates of taxation of property for certain purposes; providing for future repeal of the authority to levy such taxes; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Merchant—

HB 1293—A bill to be entitled An act relating to Northern Palm Beach County Water Control District, Palm Beach County; amending chapter 59-994, Laws of Florida, as amended, by changing the name of the district to the Northern Palm Beach County Improvement District; clarifying the district's authority to provide, finance, construct, operate, and maintain (public and) community or public preserves, playgrounds, amphitheaters, and recreation and sports areas and facilities, including equipment and apparatus required or related thereto, to appoint an officer or employee to recommend for adoption district policies and procedures for the management and operation of the district, including delegation of enforcement and implementation of the policies and procedures, to adopt, by resolution, rules, and procedures for the letting of contracts which don't exceed the Category 2 amount of s. 287.017, F.S.; 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 2183—A bill to be entitled An act relating to the Fort Myers Beach Fire Control District, Lee County; amending chapter 27676, Laws of Florida, 1951, as amended; providing for user fees for emergency medical services; providing for a referendum.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Wise and others—

HB 2189—A bill to be entitled An act relating to the City of Jacksonville, Duval County; amending chapter 92-341, Laws of Florida, as amended; clarifying exemptions provided by the charter of the City of Jacksonville 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 Stafford—

HB 2291—A bill to be entitled An act relating to Broward County; amending chapter 90-483, Laws of Florida; repealing the proposed annexation of certain lands located in unincorporated Broward County commonly referred to as a portion of the Ravenswood Road Annexation Area into the City of Hollywood; prohibiting the annexation of certain lands for a specified period; providing for the deannexation of certain lands; providing for zoning considerations; providing for the delivery of specified governmental services; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Wise and others—

HB 2735—A bill to be entitled An act relating to the City of Jacksonville; amending s. 23.07 of art. 23 of chapter 92-341, Laws of Florida, being the charter of the City of Jacksonville; authorizing and approving the settlement of certain litigation relating to art. 23 of the charter of the City of Jacksonville providing for an offsite commercial billboard ban; 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 Health Care and Representative Graber and others—

HB 2447—A bill to be entitled An act relating to trust funds; creating the Florida Organ and Tissue Donor Education Trust Fund, to be administered by the Agency for Health Care Administration; providing for source of moneys and purposes; providing for future review and termination or re-creation of the fund; providing a contingent effective date.

(Taken up out of order and passed this day.)

By Representative Safley—

HB 225—A bill to be entitled An act relating to the Palm Harbor Special Fire Control District, Pinellas County; authorizing an increase in ad valorem tax millage; providing a referendum.

—was referred to the Committee on Rules and Calendar.

By Representative Merchant—

HB 601—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 and to make it available to the public for recreational purposes; providing that land thus received shall lie within the district and East of Canal 18 of the South Florida Water Management 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 Committees on Finance and Taxation; and Transportation; and Representative Fuller—

CS for CS for HB 725—A bill to be entitled An act relating to highway safety and motor vehicles; amending s. 327.02, F.S.; redefining the term "houseboat"; amending s. 265.284, F.S.; providing for distribution of funds to the Florida Fine Arts Trust Fund; amending s. 316.075, F.S.; authorizing drivers to make a u-turn under certain circumstances; amending s. 316.193, F.S.; revising the provision dealing with the impoundment of rental vehicles; amending s. 316.2074, F.S.; providing for legal uses of certain all-terrain vehicles; amending s. 316.646, F.S., relating to the display of proof of required security to provide that the court may suspend the registration and driver license of a person who fails to furnish required proof of security; amending ss. 319.21 and 319.22, F.S.; revising provisions with respect to title transfers to exempt certain vehicles owned by a surviving spouse; amending s. 319.28, F.S.; revising the provision dealing with transfer of ownership by operation of law to provide for a surviving spouse; amending s. 320.01, F.S.; revising the definition of the terms "apportionable vehicle" and "commercial motor vehicle" to include changes in weight descriptions; defining the term "electric vehicle"; specifying the license tax for such vehicles; amending s. 212.08, F.S.; exempting sales of such vehicles from sales and use taxes for a specified period; prohibiting insurers from imposing surcharges on insurance premiums for such vehicles unless the Department of Insurance finds the surcharges justified; amending s. 320.02, F.S.; providing for additional information on the application form for motor vehicle registration; amending s. 320.05, F.S.; authorizing a discretionary fee; amending s. 320.08096, F.S.; authorizing the Division of Cultural Affairs to administer a section dealing with the Florida arts license plates; amending s. 320.08975, F.S.; changing the Save the Children license plate to the Invest in Children license plate; amending s. 320.27, F.S.; revising language with respect to motor vehicle dealers to provide requirements with respect to required insurance; amending s. 320.77, F.S.; providing requirements with respect to licenses for mobile home dealers; creating s. 320.771, F.S.; providing requirements with respect to licenses for recreational vehicle dealers; amending s. 320.822, F.S.; revising definitions; defining the terms "recreational vehicle dealer" and "recreational vehicle manufacturer"; amending ss. 319.001, 320.131, 320.27, 320.28, 320.865, 325.202, 325.203, and 325.213, F.S.; conforming references; amending s. 321.25, F.S.; authorizing the department to charge a tuition fee for certain persons who attend training at the Florida Highway Patrol Academy; providing for use of fees; amending s. 322.01, F.S.; redefining the terms "commercial motor vehicle" and "passenger vehicle"; amending s. 322.04, F.S.; eliminating reference to a class D driver license for employment as a chauffeur; amending ss. 322.051, 322.14, and 322.142, F.S.; including reference to digital images with respect to identification cards and licenses; amending s. 322.141, F.S.; deleting requirements concerning photographic backdrops with respect to the color of licenses; amending s. 322.12, F.S.; eliminating the authorization of the department to waive the driving portion of an applicant's examination for a license; amending s. 322.17, F.S.; providing for an address sticker and fee for certain licenses; amending s. 322.18, F.S.; changing alternating license expirations to 2 consecutive license expirations prior to reexamination; authorizing a discretionary fee; amending s. 322.19, F.S.; conforming to the act; amending s. 322.25, F.S.; providing that nolo contendere pleas to charges of driving while intoxicated, driving under the influence, driving with an unlawful blood-alcohol level, or any other alcohol-related or drug-related traffic offense shall be equivalent to a conviction; amending s. 322.271, F.S.; deleting the requirement of a reexamination of certain licensees and revising the conditions under which a person whose driving privilege has been permanently revoked for specified offenses may apply for reinstatement; amending s. 322.291, F.S.; deleting reference to a required complete driver's license examination; amending s. 322.292, F.S.; revising language with respect to DUI programs to eliminate provisions concerning the disposition of certain funds or assets upon decertification of the program; amending s. 322.54, F.S.; revising certain weight classifications; amending s. 325.203, F.S.; increasing timeframes with respect to motor vehicles subject to annual inspection; exempting electric vehicles from annual inspection requirements; amending s. 327.03, F.S.; designating the Department of Highway Safety and Motor Vehicles as the department responsible for titling and registering vessels; amending s. 327.04, F.S.; conforming a reference; amending s. 327.10, F.S.; extending the grace period for vessel numbering and registration to 30 days; requiring proof of date of purchase; amending s. 327.11, F.S.; conforming references; deleting certain fees; amending s. 327.12, F.S.; conforming a reference; amending s. 327.15, F.S.; providing for the consistent use of the term

"vessel"; exempting a non-motor-powered vessel from having to display a number; amending s. 327.19, F.S.; extending to 30 days the time the department must be notified of transfer of title; extending to 30 days the time the department or the tax collector must be notified of a change in address; amending s. 327.25, F.S.; conforming references; providing for a transfer of registration and a fee; providing for a replacement decal and a fee; providing for a change of classification and a fee; revising language with respect to service fees; providing for a duplication registration certificate and a fee; providing vessel registration dates; providing fractional registration fees; providing penalties for the operation of a vessel after the expiration of the registration period; deleting an optional registration date; requiring commercial fishing vessels to pay a registration fee; directing the Department of Highway Safety and Motor Vehicles to provide vessel registration forms; amending s. 327.28, F.S.; providing that the Department of Highway Safety and Motor Vehicles receives administration costs from vessel registration fees; eliminating the use of funds for certain purposes; amending s. 327.29, F.S.; conforming references; amending s. 328.01, F.S.; deleting the requirement to provide certified copies of certain documents; conforming references; amending s. 328.03, F.S.; conforming references; extending to 30 days the time allowed to file a title transfer; directing the department to take certain actions to prohibit the alteration, counterfeiting, duplication, or modification of certificates of title; amending s. 328.11, F.S.; conforming references; amending s. 328.15, F.S.; deleting the requirement that the department record the amount of a lien on a vessel; conforming references; amending ss. 328.17, 328.18, 328.20, F.S.; conforming references; amending ss. 316.1951, F.S.; authorizing license inspectors and supervisors of the Department of Highway Safety and Motor Vehicles to enforce certain parking violations; amending s. 320.27, F.S.; providing that only licensed motor vehicle dealers may advertise for sale any motor vehicle belonging to another party; repealing s. 322.18(4)(a) and (b), F.S.; deleting unnecessary language relating to license renewal; repealing s. 322.55, F.S., relating to the waiver of the driving portion of the driving skills examination; providing effective dates.

(Substituted for **CS for SB 2232** on the Special Order Calendar this day.)

By Representative Peeples—

HB 1299—A bill to be entitled An act relating to the City of Arcadia, DeSoto County; repealing sections 31 and 31.1 of the City Charter of the City of Arcadia; adopting a new section of the City Charter of the City of Arcadia which provides that all elections for the election of officers of the City of Arcadia shall be held and conducted in the manner prescribed in the City Code of the City of Arcadia with an exception when there is no applicable City Code provision; requiring rejection of any City Code provision that conflicts with a Florida Election Code provision that expressly applies to municipalities; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Boyd and others—

HB 1383—A bill to be entitled An act relating to education; amending ss. 231.40 and 240.343, F.S.; revising provisions relating to sick leave for school district and community college employees; providing definitions; limiting the amount of pay certain employees may receive for unused sick leave upon termination of employment; amending s. 231.41, F.S.; correcting a cross reference; amending s. 231.481, F.S.; limiting the amount of pay for unused vacation leave upon termination of employment; providing an effective date.

(Substituted for **SB 852** in Returning Messages this day.)

By the Committee on Health Care and Representative Peaden and others—

CS for HB 1385—A bill to be entitled An act relating to prescription drugs; amending s. 499.033, F.S.; revising standards for the prescription of ephedrine; amending s. 499.0054, F.S., revising advertising standards for ephedrine; amending s. 499.0057, F.S.; correcting a cross reference; amending s. 893.03, F.S., expanding drugs included in the schedule of controlled substances; amending s. 893.135, F.S.; prescribing first-degree-felony penalties for offenses involving trafficking in oxycodone, hydrocodone, hydromorphone, and derivatives of them and of morphine and opium; providing an effective date.

(Substituted for **SB 2454** on the Special Order Calendar this day.)

By Representative Spivey—

HB 1407—A bill to be entitled An act relating to Citrus County; providing for a referendum to be held on the issue of whether emergency medical services in the county should be privatized; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Minton—

HB 1439—A bill to be entitled An act relating to Palm Beach County; creating the "Village of Wellington Charter"; providing legislative intent; establishing the Village of Wellington; providing municipal boundaries and municipal powers; providing a council-manager form of government; providing for election of a village council; providing for membership, qualifications, terms, powers, and duties of its members, including the mayor; providing for a vice mayor; providing for compensation and expenses; providing general powers and duties; providing circumstances resulting in vacancy in office; providing grounds for forfeiture and suspension; providing for filling of vacancies; providing for meetings; providing for keeping of records; providing for adoption, distribution, and recording of technical codes; providing a limitation upon employment of council members; prohibiting certain interference with village employees which shall constitute malfeasance in office; establishing the fiscal year; providing for adoption of annual budget and appropriation; providing amendments for supplemental, reduction, and transfer of appropriations; providing for limitations; providing for appointment of charter officers, including a village manager and village attorney; providing for removal, compensation, and filling of vacancies; providing qualifications, powers, and duties; providing for nonpartisan elections and for matters relative thereto; providing for recall; providing for initiative and referenda; providing the village a transitional schedule and procedures for first election; providing for first-year expenses; providing for adoption of transitional ordinances, resolutions, comprehensive plan, and local development regulations; providing for accelerated entitlement to state-shared revenues; providing for gas tax revenue; providing for continuation of the Palm Beach County Fire Rescue Municipal Service Taxing Unit; providing for continuation of the Palm Beach County Library Taxing District; providing for dissolution of the Palm Beach County Municipal Service Taxing Unit B, dissolution of the Palm Beach County Municipal Service Taxing Unit C and dissolution of Palm Beach County Municipal Service Taxing Unit F; providing for law enforcement; providing for continuation and transfer of Acme Improvement District and for transfer of its assets and liabilities; providing that all special acts of Acme Improvement District shall become ordinances of the village; providing land descriptions of the village; providing for future amendments of the charter; providing for standards of conduct in office; providing for severability; providing for referendum approval; providing effective dates.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Governmental Operations and Representative Littlefield and others—

CS for HB 1505—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.021, F.S., redefining "dependent beneficiary" to clarify the definition and provide restrictions on receipt of benefits; amending s. 121.091, F.S.; redefining who may be designated a member's joint annuitant; providing special provisions for payment of certain survivor benefits to a joint annuitant; providing a procedure under which cities and independent special districts may revoke their election to participate in the system; adjusting contribution rates for employers of system members to fund the changes made by this act; providing an effective date.

(Substituted for **SB 1350** on the Special Order Calendar this day.)

By Representative Bainter and others—

HB 1515—A bill to be entitled An act relating to Volusia County; creating the "City of Deltona Charter"; providing legislative intent; establishing the City of Deltona; providing municipal powers; providing for election of a City Commission, and providing for membership, qualifications, terms, and powers and duties of its members, including the Mayor; providing for a Vice Mayor; providing for compensation and expenses; providing circumstances resulting in vacancy in office; providing grounds for forfeiture and suspension; providing for filling of vacancies; providing for meetings; providing for keeping of records; providing for adoption, recording, and distribution of technical codes; prohibiting certain interference with City employees, which shall constitute malfeasance in office; establishing the fiscal year, providing for adoption of annual budget, and providing for increase, reduction, and transfer of appropriations; providing limitations to Commission's bonding or contracting authority; providing for appointment of City Manager and City Attorney; providing for removal, compensation, and filling of vacancies; providing qualifications and powers and duties; providing for nonpartisan elections and for matters relative thereto; providing for recall; providing land description of the city and its districts; providing for dissolution of the Deltona Fire District and for transfer of its assets and liabilities; providing for continuation of personnel and services; providing for the repeal of chapters 69-1707, 73-646, 83-532, 83-533, 84-538 and 90-415, Laws of Florida, relating to the Deltona Fire District; providing for continuation and dissolution of the Deltona Area Municipal Services District and for transfer of its assets and liabilities; providing for continuation and dissolution of the Unincorporated Area Municipal Services and Taxing Unit; providing for future charter amendment; providing for review; providing for standards of conduct in office; providing a transitional schedule and procedures for first election; providing for creation and establishment of City; providing for first-year expenses; providing for adoption of transitional ordinances, resolutions, comprehensive plan, and land use regulations; providing for accelerated entitlement to state-shared revenues; providing for referendum.

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 Commerce; and Representative Albright and others—

CS for CS for HB 1523—A bill to be entitled An act relating to taxation; amending s. 125.0104, F.S., relating to the local option tourist development tax; authorizing additional uses for the additional 1-percent tax which may be levied to pay debt service on bonds issued to finance construction or renovation of a professional sports franchise facility; revising the types of facilities qualified for such funding; amending s. 125.35, F.S.; exempting a county from bid requirements with respect to a lease of a professional sports franchise facility financed by tourist development tax revenues or tax revenues pursuant to s. 212.20; amending s. 212.05, F.S., which provides for a tax on the use of coin-operated amusement machines; providing that when the proprietor of the business where a machine is located does not own the machine he is deemed the lessee and operator, and providing responsibility for payment of taxes; requiring operators to obtain and display an identifying certificate in their place of business rather than affix an identifying device to each machine; providing requirements for such certificates and for application therefor; providing for fees; removing provisions relating to issuance of identifying devices by tax collectors and establishment of a toll-free number to report violations; providing a penalty for failure to display the certificate; providing a penalty for placement of such machines by lessees in a place of business without such certificate; amending ss. 509.032 and 561.1105, F.S., to conform; amending s. 159.803, F.S.; providing a definition; amending s. 159.804, F.S.; revising certain percentages with respect to allocation of the state volume limitation on private activity bonds; amending s. 159.807, F.S.; revising certain provisions for issuance of written confirmations for issues of private activity bonds by agencies; amending s. 159.8081, F.S.; limiting the effect of a written confirmation of the director of the Division of Bond Finance under certain circumstances; creating s. 159.8083, F.S.; providing for an allocation pool for Florida First Businesses; specifying uses of such pool; providing procedures; providing requirements; amending s 159 809, F.S.; revising provisions providing for recapture of unused amounts of certain initial allocations of private activity bonds; providing for adding certain portions of initial allocations to the Florida First Business allocation pool; providing an effective date.

(Taken up out of order and passed this day.)

By Representative Ogles—

HB 1601—A bill to be entitled An act relating to the Parrish Fire Control District, Manatee County; amending chapter 85-451, Laws of Florida, as amended; providing for election of commissioners; increasing the rates for special assessments; increasing impact fees; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Ogles and others—

HB 1643—A bill to be entitled An act relating to the Trailer Estates Fire Control District, Manatee County; amending chapter 63-1587, Laws of Florida, as amended, to change assessments for residences; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By the Committee on Aging and Human Services; and Representative Hafner and others—

CS for HB 1675—A bill to be entitled An act relating to adult congregate living facilities; amending s. 400.402, F.S.; modifying definitions; amending s. 400.407, F.S., and creating s. 400.4075, F.S.; revising provisions relating to services under a limited mental health license; providing for increases in license fees; providing an inspection fee; amending s. 400.408, F.S.; clarifying unlawful referral to a facility under moratorium; amending ss. 400.411 and 400.412, F.S.; expanding requirements relating to a facility's property agreements and firesafety inspections; conforming provisions for sale or transfer of facility ownership; amending s. 400.414, F.S.; specifying acts relating to firesafety standards that are grounds for regulatory action against a licensee; providing that certain proceedings are not subject to de novo review; providing for denial or revocation of a license for failure to correct fire code violations; specifying timeframe for hearing officers' decisions; reenacting s. 400.415, F.S., relating to moratorium on admissions, to incorporate the amendment to 400.414, F.S., in a reference; amending s. 400.417, F.S.; requiring proof of satisfactory firesafety inspection for license renewal; amending s. 400.4176, F.S.; requiring background screening of new administrators; amending s. 400.428, F.S.; expanding requirements for inspections for compliance with residents' rights; amending s. 400.441, F.S.; providing legislative intent; requiring annual fire inspections; creating s. 400.4415, F.S.; establishing an advisory committee; providing for a pilot facility rating system; amending s. 400.444, F.S.; expanding requirements for facility construction and renovation to include compliance with uniform firesafety standards; authorizing certain agency action upon notice of life-threatening violations; amending s. 400.452, F.S.; expanding the core educational requirement for facility administrators and staff; requiring competency testing; providing a penalty; providing for continuing education; authorizing the Agency for Health Care Administration to require further training or education; creating s. 400.456, F.S.; providing screening requirements for administrators, owners, corporate officers, general partners, and directors of adult congregate living facilities; providing requirements for proof of previous compliance with screening requirements; providing conditions for termination of certain employees; providing for the costs of records checks; limiting the use of certain records; providing penalties; providing exemptions from disqualification from employment; providing a limitation; amending s. 409 212, F.S.; correcting a cross reference; establishing an adult congregate living facility loan program; providing for startup funding; authorizing contract for program administration; providing for eligibility and applications; providing for request for bids; providing for evaluation and reports; amending s. 400.402, F.S.; modifying definitions; amending s. 400.407, F.S., and creating s. 400.4075, F.S.; revising provisions relating to services under a limited mental health license; amending s. 400.408, F.S.; clarifying unlawful referral to a facility

under moratorium; amending ss. 400.411 and 400.412, F.S.; expanding requirements relating to a facility's property agreements and firesafety inspections; conforming provisions for sale or transfer of facility ownership; amending s. 400.414, F.S.; specifying acts relating to firesafety standards that are grounds for regulatory action against a licensee; providing that certain proceedings are not subject to de novo review; providing for denial or revocation of a license for failure to correct fire code violations; specifying timeframe for hearing officers' decisions; reenacting s. 400.415, F.S., relating to moratorium on admissions, to incorporate the amendment to 400.414, F.S., in a reference; amending s. 400.417, F.S.; requiring proof of satisfactory firesafety inspection for license renewal; amending s. 400.4176, F.S.; requiring background screening of new administrators; amending s. 400.428, F.S.; expanding requirements for inspections for compliance with residents' rights; amending s. 400.441, F.S.; providing legislative intent; providing for a determination of evacuation capability; providing firesafety requirements; requiring the installation of automatic fire sprinkler systems within specified deadlines; creating a study-work group to study firesafety standards and report its recommendations to the Legislature; creating s. 400.4415, F.S.; establishing an advisory committee; providing for a pilot facility rating system; amending s. 400.444, F.S.; expanding requirements for facility construction and renovation to include compliance with uniform firesafety standards; authorizing certain agency action upon notice of life-threatening violations; amending s. 400.452, F.S.; requiring quarterly training and education programs; adding a topic to the core educational requirement; requiring certain training for new administrators; modifying exemptions from the training fee; providing a continuing education requirement; eliminating requirement that the department provide certain training; amending s. 409.212, F.S.; correcting a cross reference; establishing an adult congregate living facility fire prevention loan program; providing for funding; providing for administration; amending s. 400.407, F.S.; deleting a limited mental health license; elimination certain fees; increasing biennial license fees; requiring inspection fees in certain instances; providing a waiver of local government fees; amending s. 400.418, F.S.; providing for disposition of inspection fees; amending s. 400.441, F.S.; requiring the adoption of quality resident-care standards; specifying a national fire code to be enforced; requiring certain facilities to have an automatic sprinkler system; specifying a time frame for installation of an automatic sprinkler system for certain facilities; requiring an annual fire inspection by the local fire marshal; requiring certain facilities to be staffed 24 hours every day; amending s. 400.141, F.S.; revising the requirements for nursing home facilities pertaining to respite care and adult day services; authorizing certain nursing home facilities to share programs and staff; amending s. 400.402, F.S.; amending definitions; amending s. 400.407, F.S.; amending criteria for who may be admitted, or may remain, as a resident in a licensed facility; amending provisions relating to the annual status report; amending s. 400.4176, F.S.; amending notice requirements that apply when a facility changes administrators during a license period; amending s. 400.426, F.S.; providing an exception to requirements concerning a medical examination of a newly admitted resident; amending s. 400.452, F.S.; amending staff training and education requirements; providing periodic continuing education requirements for administrators; requiring training in specified job duties for administrators and other staff members; amending provisions relating to the responsibility for paying for educational courses; reassigning certain duties from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; amending s. 641.31, F.S.; requiring subscribers who are residents of certain continuing care facilities or retirement facilities to be transferred to the facilities' skilled nursing units under certain circumstances; providing for a pilot project for direct admission of individuals to adult congregate living facility extended congregate care programs; providing guidelines; requiring evaluations and reports; amending and renumbering ss. 410.021, 410.022, 410.023, 410.024, 410.0241, 410.026, and 410.0295, F.S., relating to the community-care-for-the-elderly program; revising definitions; transferring responsibilities to the Department of Elderly Affairs; revising powers and duties; providing for collection of fees; limiting administrative expenses; revising program services; providing for training standards and requirements for service providers and staff; amending and renumbering s. 410.401, F.S.; transferring responsibility for the Alzheimer's Disease Advisory Committee to the department; providing additional duties; increasing membership; revising appointment procedures; providing for per diem and travel expenses; amending and renumbering s. 410.402, F.S.; revising provisions relating to funding of memory disorder research clinics and centers; providing department responsibilities; limiting administrative expenses; revising provisions relating to day care and respite care programs; creating s. 430.503, F.S.; providing for collection of fees for services under the "Alzheimer's Disease Initiative"; limiting administrative expenses; amending and renumbering s. 410.403, F.S., and amending ss. 110.501, 400.464, 402.33, and 420.36, F.S.; conforming cross references; transferring to the department certain responsibilities and specified funds of the Aging and Adult Services Program Office of the Department of Health and Rehabilitative Services; amending s. 20.41, F.S.; providing for headquarters and planning and service areas of the Department of Elderly Affairs; providing that the department is the state unit on aging; providing for area agencies on aging; providing organization and responsibilities; deleting obsolete language; amending ss. 400.401, 400.402, 400.408, 400.426, 400.431, 400.434, 400.441, and 400.452, F.S.; changing references to adult congregate living facilities to assisted living facilities; transferring to the department from the Department of Health and Rehabilitative Services certain responsibilities and funding relating to assisted living facilities; providing responsibilities of the departments and the Agency for Health Care Administration; conforming provisions and references; amending ss. 400.551 and 400.562, F.S.; transferring certain responsibilities relating to adult day care centers; providing for standards adopted in rules; amending s. 400.602, F.S.; providing hospice licensure for certain entities under specified conditions; amending ss. 400.601, 400.602, 400.605, and 400.606, F.S.; transferring certain responsibilities relating to hospices; allowing for additional hospices under certain conditions; amending ss. 400.618, 400.619, 400.6196, 400.621, 400.6211, and 400.622, F.S.; transferring certain responsibilities and funding relating to adult family-care homes; providing responsibilities of the departments and the Agency for Health Care Administration; providing for future transfer of powers, duties, and functions relating to administration of the nursing home preadmission screening program to the department from the Department of Health and Rehabilitative Services; providing for allocation of resources to the planning and service areas; providing for transfer of positions and funding; providing for comprehensive assessment and review screening for certain persons; providing for future transfer of powers, duties, and functions relating to the home care for the elderly program; abolishing certain staff positions; providing for administration of the program on a contractual basis through the area agencies on aging; providing for a task force for reemployment assistance; providing for transfer of funding; providing for use of savings due to privatized administration of the program; amending and renumbering s. 410.011, F.S.; providing that the Department of Elderly Affairs is the designated state unit for administration of federal aging programs; amending ss. 410.031, 410.032, 410.033, 410.034, 410.035, and 410.037, F.S.; providing for future separate administration of provisions relating to home care for disabled adults and the elderly by the Department of Health and Rehabilitative Services and the Department of Elderly Affairs; deleting references to elderly persons from provisions to be administered by the Department of Health and Rehabilitative Services; deleting provisions relating to judicial review of unfitness to provide home care; conforming language; amending ss. 430.01, 430.02, 430.03, and 430.04, F.S.; revising short title, legislative intent, purposes, and duties and responsibilities of the Department of Elderly Affairs; creating ss. 430.601, 430.602, 430.603, 430.604, 430.605, and 430.606, F.S.; providing for future administration by the Department of Elderly Affairs of provisions relating to home care for the elderly; providing legislative intent; providing definitions; providing for minimum standards and procedures; providing for determination of fitness to provide home care; providing for subsidy payments; providing for eligibility; providing a definition for certain purposes; repealing s. 410.016, F.S, relating to responsibilities of the Department of Health and Rehabilitative Services regarding the state's elderly population; repealing s. 410.029, F.S., relating to multiyear plans for implementation of community care systems; repealing ss. 410.201, 410.2015, and 410.202, F.S., relating to the older volunteers service credit program; repealing s. 430.06, F.S., relating to an interdepartmental plan for improving the provision of social service and long-term care to the elderly; transferring the powers, duties, and functions of the displaced homemaker program from the Department of Health and Rehabilitative Services to the Department of Education; transferring, renumbering, and amending ss. 410.30, 410.301, and 410.302, F.S.; conforming terminology to the transfer of the displaced homemaker program; transferring at a future date certain powers, duties, and functions of the Department of Health and Rehabilitative Services related to nursing home preadmission screening, home care for the elderly, and training of adult congregate living facilities to the Department of Elderly Affairs; amending s. 212.08, F.S.; providing an exemption from payment of taxes for residents of certain homes for the aged; amending s. 415.101, F.S.; revising legislative intent with respect to adult protective services; providing for care and protection of all disabled adults and elderly persons; amending s. 415.102, F.S.; revising definitions; amending s. 415.103, F.S.; revising the operation of the central abuse reg-

istry and tracking system; creating s. 415.1034, F.S.; prescribing requirements for mandatory reporting of abuse, neglect, exploitation, or death; creating ss. 415.1035, 415.1036, F.S.; prescribing provisions relating to a facility's duty to inform residents of the right to make reports and relating to immunity for those who make reports; creating s. 415.1045, F.S.; providing requirements for protective investigations and transmittal of records to state attorneys; providing for use of photographs and videotapes; providing for abrogation of privileged communications; providing for confidential records and documents; providing for classification or closure of records; amending s. 415.105, F.S.; revising requirements for provision of protective services with consent or when consent is withdrawn; deleting provisions relating to protective services for disabled adults and elderly persons who lack capacity to consent, or whose caregivers refuse services, or in an emergency; creating s. 415.1051, F.S.; prescribing requirements for the provision of protective services when capacity to consent is lacking; providing for nonemergency and emergency interventions; providing for notice and hearings; providing for protective services with caregiver or guardian present; providing for protective services orders; specifying limitations; creating s. 415.1052, F.S.; prescribing procedures relating to interference with an investigation or the provision of protective services; creating s. 415.1055, F.S.; providing for notification to administrative entities and other persons and notification to law enforcement and state attorneys; amending s. 415.106, F.S.; revising requirements for cooperation between the Department of Health and Rehabilitative Services and criminal justice and other agencies; creating s. 415.1065, F.S.; requiring certain records management; amending s. 415.107, F.S.; revising provisions relating to confidentiality of reports and records; creating s. 415.1075, F.S.; providing for administrative remedies; providing for amendment or expunction of reports; providing for appeals; providing for request to set aside a report due to excusable neglect or fraud; creating s. 415.1099, F.S.; providing for waiver of certain filing fees; amending s. 415.1102, F.S.; revising provisions relating to adult protection teams and services provided thereby; creating s. 415.1105, F.S.; providing for training programs for adult protective services staff and persons required to report abuse, neglect, or exploitation; amending s. 415.111, F.S.; revising and eliminating criminal penalties; specifying criminal penalties for a person who commits an assault or battery on a protective investigator; creating s. 415.1111, F.S.; providing civil penalties; providing for a private right of action for abuse, neglect, or exploitation of a disabled adult or elderly person; creating s. 415.1113, F.S.; providing for administrative fines for false reporting; providing for allegations; providing for notice and hearing; amending s. 415.113, F.S., relating to statutory construction; transferring and renumbering s. 415.114, F.S., relating to a motion for a speedy trial for persons over a specified age; amending ss. 39.001, 39.045, 39.076, 39.411, 110.1127, 119.07, 242.335, 393.0655, 394.457, 395.3025, 397.451, 400.211, 400.414, 400.512, 400.619, 402.305, 409.175, 415.504, 447.208, 447.401, 464.018, 509.032, 744.474, 775.15, and 943.0585, F.S.; revising requirements for certification of nursing assistants; requiring certain information to be added to the certified nursing assistant registry; expanding authority of the Agency for Health Care Administration to deny, suspend, or revoke certification; revising circumstances which require recertification; requiring nursing homes to verify certification prior to employment of a nursing assistant; requiring notice to the registry of certain lapse of employment; authorizing the agency to contract for examination services; providing a cost limitation; providing a fee for issuance of a duplicate certificate; providing screening requirements for certified nursing assistants and nursing assistant students employed in a nursing home; requiring nursing home administrators to annually confirm screening of all such employees; providing requirements for proof of previous compliance with screening requirements; providing conditions for termination of certain employees; providing for the costs of records checks; limiting the use of certain records; providing penalties; providing exemptions from disqualification from employment; providing a limitation; revising standards for screening to conform to the act; conforming terminology and correcting cross references; providing for screening of personnel of certain programs of the Department of Elderly Affairs; amending s. 90.803, F.S.; amending s. 400.464, F.S.; providing that offering or advertising home health services without a license or misrepresenting the nature of the license held is a violation of the Florida Deceptive and Unfair Trade Practices Act; providing criminal penalties for such practice; specifying conditions for admissibility of certain hearsay evidence; creating s. 825.101, F.S.; providing definitions; creating s. 825.102, F.S.; providing penalties for abuse or neglect of a disabled adult or elderly person; creating s. 825.103, F.S.; providing penalties for the exploitation of such persons; creating s. 825.104, F.S.; prohibiting a certain defense to prosecution; creating s. 825.105, F.S.; providing immunity from liability for certain good-faith assistance; creating s. 825.106, F.S.; providing for speedy trial in certain proceedings; amending s. 914.16, F.S.; amending a cross reference; amending s. 921.0012, F.S.; amending sentencing guidelines; repealing ss. 415.104, 415.1085, 415.109, and 415.111(3), (4), (5), F.S., relating to protective services investigations, use of photographs, medical examinations, and X rays, abrogation of privileged communications in cases of abuse, neglect, or exploitation of an elderly person or disabled adult, and penalties for abuse, neglect, or exploitation of an elderly person or disabled adult; amending s. 196.1975, F.S.; providing that certain corporations will not be disqualified for purposes of allocating certain tax credits under certain circumstances; creating the Panel for the Study of Skilled Nursing Care; providing for its membership and duties; requiring a report; delaying the effective date of s.19, ch. 93-214 and s. 4, ch. 94-206, Laws of Florida; providing that a certificate of need is not required for certain home health agencies; providing requirements relating to services provided through such agencies; providing that violation is a violation of the Florida Deceptive and Unfair Trade Practices Act; providing effective dates.

(Taken up out of order and passed this day.)

By the Select Committee on Educational Facilities and Representative Klein and others—

CS for HB 1797—A bill to be entitled An act relating to educational facilities; amending s. 235.002, F.S.; revising legislative intent with respect to the Educational Facilities Act; amending s. 235.19, F.S.; revising requirements for a school board in planning and selecting sites for educational facilities; providing that provisions of the section are not applicable to the Board of Regents; amending s. 235.193, F.S.; revising requirements for coordinating planning between school boards and local governing bodies; revising requirements for a school board in providing notice to the local governing body of a proposed acquisition or lease of educational facilities; providing development standards with respect to the expansion of a school site; creating s. 235.194, F.S.; requiring school boards to submit a general educational facilities report and an educational plan survey to local governments within the school district; amending s. 255.20, F.S.; providing an exception to the competitive selection process for construction or improvement of certain buildings; providing requirements; amending s. 235.26, F.S.; requiring the state Board of Education to propose amendments to the requirements for public shelters in the Uniform Building Code; exempting educational facilities in specified evacuation zones from requirements for public shelters; requiring the Department of Community Affairs to prepare a statewide emergency shelter plan; requiring the Advisory Council on Intergovernmental Relations to review certain exemptions from building codes, permits, and fees provided for the construction of educational facilities; amending s. 235.34, F.S.; authorizing a school board to expend funds for certain additional infrastructure; requiring a local government to assure that a board is reimbursed for infrastructure costs incurred by the board beyond its proportionate share; amending s. 163.3174, F.S.; requiring local planning agencies to involve district and community college school boards in local planning; amending s. 163.3177, F.S.; requiring that the future land use element of a comprehensive plan include public schools as an allowable use by a specified date; reviving and readopting ss. 235.002, 235.19, 235.193, 235.26, 235.34, F.S., as amended, notwithstanding the repeal scheduled in ch. 85-116 and 86-1, Laws of Florida; amending s. 163.3180, F.S.; providing requirements for a local government that extends the concurrency requirement to public schools; providing a finding of important state interest; requiring the Board of Regents to name a certain performing arts center; requiring the Board of Regents to name a certain university conference center; providing an effective date.

(Substituted for **CS for CS for SB 544** on the Special Order Calendar this day.)

By Representative Gay—

HB 1949—A bill to be entitled An act relating to Lee County; creating the "Town of Fort Myers Beach charter"; providing for the corporate name and purpose of the charter; establishing territorial boundaries of the municipality and authorizing annexations; providing powers of the municipality and of certain officers; providing for election of a town council, including the mayor and vice mayor, and providing for qualifications, powers, and duties of its membership, and a procedure for establishing their compensation and expense reimbursement; establishing cir-

cumstances which create vacancies in office and providing for filling vacancies and for forfeiture and recall; requiring independent financial audit; providing for council meetings, rules, recordkeeping, and voting at meetings; providing for nominations, elections, and terms of office of the council; providing for a town manager, town clerk, and town attorney and powers and duties of each; authorizing establishment of administrative departments; providing definitions; providing procedures for adoption of ordinances and resolutions, and for handling finances; establishing a fiscal year and annual budgets; providing procedures for initiative and referendum; providing for charter amendments and review; providing for severability; providing for transition, including initial election and terms, date and creation and establishment of the municipality, payment of certain revenues, and transitional comprehensive plan and land development regulations; entitling the town to state shared and local option gas tax revenues; providing for contractual services and facilities; eliminating transition elements; providing for services of independent special districts; providing for credit for special district taxes in qualifying for state revenue sharing; providing for a referendum; providing effective dates.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Trovillion and others—

HB 2055—A bill to be entitled An act relating to local government; amending s. 125.56, F.S.; revising provisions relating to adoption of a building code by a county; including amendment of a code; revising activities to which a code applies; revising notice requirements; amending s. 125.66, F.S.; revising provisions relating to adoption of ordinances by counties; revising notice requirements for the regular enactment procedure; revising the effective date; revising application of the emergency enactment procedure and requirements with respect thereto; specifying the procedures and requirements, including notice and hearing requirements, for enactment of ordinances and resolutions that change the actual list of permitted, conditional, or prohibited uses within a zoning category or change the actual zoning map designation of a parcel; providing a limitation on certain challenges to an ordinance's or resolution's validity and providing requirements with respect thereto; specifying that notice procedures are minimum requirements; validating the procedures used for certain county and municipal ordinances and resolutions; amending s. 255.20, F.S.; revising an exemption from requirements relating to public construction projects; revising the notice requirement for a finding by a local government that it is in the public's best interest to use its own services, employees, and equipment; amending s. 166.041, F.S.; revising provisions relating to adoption of ordinances by municipalities; revising the types of ordinances and resolutions that cannot be adopted as an emergency ordinance or resolution; specifying the procedures and requirements, including notice and hearing requirements, for adoption of ordinances that change the actual list of permitted, conditional, or prohibited uses within a zoning category or change the actual zoning map designation of a parcel; providing a limitation on certain challenges to an ordinance's or resolution's validity and providing requirements with respect thereto; specifying that notice procedures are minimum requirements; amending s. 163.3164, F.S.; revising the definition of "public notice" under the Local Government Comprehensive Planning and Land Development Regulation Act; specifying that notice procedures are minimum procedures; amending ss. 163.3171 and 163.3174, F.S.; removing references to "due" public notice in provisions relating to joint exercise of powers under the act and local planning agency hearings on plans; amending s. 163.3181, F.S.; revising notice requirements relating to a local government's decision regarding a publicly financed capital improvement project; amending s. 163.3184, F.S.; revising notice and hearing requirements for public hearings on proposed comprehensive plans or plan amendments; amending s. 163.3187, F.S.; revising notice requirements for plan amendments directly related to small scale developments; deleting authority of the state land planning agency to establish alternative public notice procedures for such amendments, amending ss. 163.346 and 341.347, F.S., to conform; amending s. 163.385, F.S., relating to revenue bonds; revising language relating to issuance of refunding bonds; amending s. 255.22, F.S.; removing provisions relating to reconveyance of lands conveyed on or after October 1, 1988, to a municipality or county and not used for the purposes specified, and to the retroactive application of such provisions; providing an effective date.

(Substituted for **CS for SB 1034** on the Special Order Calendar this day.)

By Representative Pruitt—

HB 2077—A bill to be entitled An act relating to the St. Lucie County-Fort Pierce Fire District; changing the name to St. Lucie County Fire District; amending the charter to incorporate all subsequent amendments; changing the interest rate; repealing all previous acts relating to the fire district; providing an effective date.

Proof of publication of the required notice was attached.

(Taken up out of order and passed this day.)

By the Committee on Natural Resources and Representative Crady and others—

CS for HB 2119—A bill to be entitled An act relating to environmental regulation; amending s. 373.59, F.S.; requiring all water management districts to make certain payments in lieu of taxes for district lands acquired with funds allocated from the Water Management Lands Trust Fund; amending s. 403.7046, F.S.; providing for certain regulations and reporting and registration process with regard to recovered materials; providing an effective date.

(Substituted for **SB 1576** on the Special Order Calendar this day.)

By Representative Gay—

HB 2185—A bill to be entitled An act relating to the Lee County Mosquito Control District; amending chapter 67-1630, Laws of Florida; defining boundaries of the district; providing for division of the district into areas; expanding powers and duties of the board of commissioners; providing for salary of board members; providing for budget hearings and tax levy made and adopted in accordance with general law; revising qualifications of a director; 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 Agriculture and Consumer Services; and Representative Couch—

HB 2369—A bill to be entitled An act relating to consumer protection; amending ss. 381 0072, 500.03, and 509.013, F.S.; providing an exemption from the definition of "food service establishment"; creating s. 559.926, F.S.; providing a short title; amending s. 559.927, F.S., and creating ss. 559.928-559.939, F.S.; reorganizing provisions relating to sellers of travel; revising definitions, certain security requirements, cancellation requirements, violations, certain exemptions, penalty provisions, and state preemption; providing additional exemptions; adding certain disclosure requirements; amending ss. 205.1971, 501.604, and 817.36, F.S.; correcting cross references; providing an effective date.

(Substituted for **SB 2888** on the Special Order Calendar this day.)

By the Committee on Health Care and Representative Graber and others—

HB 2445—A bill to be entitled An act relating to organ and tissue donation; creating s. 320.08047, F.S.; providing for voluntary contributions for organ and tissue donor education as a part of the motor vehicle license tax process; amending s. 322.08, F.S.; providing for voluntary contributions for organ and tissue donor education as a part of the driver license application process; creating s. 395.2050, F.S.; providing for routine inquiry for organ or tissue donation; requiring certification for procurement activities; amending s. 395.3025, F.S.; providing disclosure of patient records to organ procurement organizations, tissue banks, and eye banks for specified purposes; amending s. 732.912, F.S.; providing procedures for making an anatomical gift; amending s. 732.914, F.S.; providing procedures regarding the manner of executing anatomical gifts; amending s. 732.915, F.S.; establishing an organ and tissue donor registry; providing procedures; providing for funding; amending s. 732.916, F.S.; providing for revocation of gifts by oral statements; amending s. 732.917, F.S.; allowing certain procedures for preserving a potential donor's organs;

providing for expenses; amending s. 732.921, F.S.; conforming references to transfer of responsibilities regarding donor programs from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; providing for use of driver licenses or identification cards to indicate the individual's intent to donate organs or tissue; amending s. 732.9215, F.S.; requiring the agency to undertake certain responsibilities regarding educational programs; creating s. 732.9216, F.S.; establishing an organ and tissue donor education panel; providing duties and membership qualifications; providing for per diem and travel expenses; amending s. 732.922, F.S.; providing duties of hospital administrators in obtaining consent for organ or tissue donation; providing an appropriation; providing an effective date.

(Substituted for **CS for SB 2906** on the Special Order Calendar this day.)

By the Committee on Regulated Industries and Representative Geller—

HB 2455—A bill to be entitled An act relating to the regulation of pari-mutuel wagering; amending s. 550.002, F.S.; revising language relating to the terms "breaks," "harness racing," "intertrack wager," "takeout," and adds a definition for "net pool pricing"; amending s. 550.01215, F.S.; authorizing the division to authorize changes in racing dates under certain circumstances; allowing conversion of a pari-mutuel wagering permit; amending s. 550.0251, F.S., relating to disposition of money from administrative fines; amending s. 550.0054, F.S.; deleting reference to the commission; deleting reference to the Department of Law Enforcement with respect to fingerprints; amending s. 550.09511, F.S., relating to payment of tax on intertrack handle; allowing jai alai permitholder to conduct intertrack wagering when licensed by the division; repealing subsection (3) of section 550.09511, F.S., relating to inactive jai alai permits escheating to the state; repealing subsection (6) of section 550.09511, F.S., relating to the July 1, 1998, sunset; repealing s. 550.09513, F.S.; relating to taxes and fees with respect to jai alai permitholders beginning casino-type gaming activities; amending s. 550.105, F.S.; revising language with respect to occupational licenses of racetrack employees; providing reference to jai alai frontons; providing reference to restricted and unrestricted licenses; providing for access to certain areas; providing for the application of the section; authorizing the division to place conditions upon certain licenses or licensees; amending s. 550.1155, F.S.; providing a time limit on license suspensions; amending s. 550.155, F.S.; requiring permitholders to inform the patrons as to the takeout currently being applied to handle at the facility; amending s. 550.2614, F.S.; correcting a cross reference; providing for membership in the horsemen's association; amending s. 550.2625, F.S.; deleting references to commission; amending s. 550.334, F.S.; correcting cross references; deleting reference to the commission; deleting references to administrative penalties; deleting reference to certain quarter horse races; amending s. 550.3551, F.S.; clarifying references to statutes regarding taxation; providing reference to jai alai frontons; allowing a permitholder to modify its takeout percentage for simulcast wagering when net pool pricing is used; amending s. 550.495, F.S.; revising language with respect to totalisator licensing; amending s. 550.505, F.S.; deleting reference to the commission; repealing s. 550.615(1), F.S., relating to greyhound permitholders conducting intertrack wagering and purse requirements; and providing an effective date.

(Substituted for **CS for SB 2234** on the Special Order Calendar this day.)

By the Committee on Tourism and Cultural Affairs; and Representative Bloom and others—

HB 2475—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.02, F.S.; providing that privilege, franchise, or concession fees or fees for a license to do business paid to an airport are not payments for leasing, renting, or granting a license to use real property; amending s. 212.031, F.S.; providing for determination of amounts subject to the tax on the lease or rental of or license in real property; providing intent; providing an effective date.

(Taken up out of order and passed this day.)

By Representative Trammell—

HB 2553—A bill to be entitled An act relating to the use of fuel taxes; authorizing the transfer and use of legally restricted fuel taxes by counties having a population of 10,000 or less for unrestricted purposes for all fiscal years prior to and through fiscal year 1994-1995; providing an effective date.

(Taken up out of order and passed this day.)

By Representative Harris—

HB 2565—A bill to be entitled An act relating to the Sebring Airport Authority, Highlands County; amending chapter 67-2070, Laws of Florida, as amended; allowing the authority to contract with and provide services to other governmental entities at other airports, airfields, and related facilities; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Select Committee on Water Policy and Representative Rayson—

HB 2609—A bill to be entitled An act relating to alternative water supplies; amending s. 125.01, F.S.; providing power of counties to provide and regulate alternative water supplies and to establish taxing units therefor; amending ss. 153.02 and 153.52, F.S.; redefining "water system" to provide for the use of alternative water supplies in county water systems and water and sewer districts; amending s. 170.01, F.S.; authorizing municipalities to order construction or reconstruction of alternative water supply systems and to levy special assessments therefor; amending s. 180.02, F.S.; authorizing municipalities to require certain persons to connect to alternative water supplies; amending s. 180.06, F.S.; authorizing municipalities and certain private companies to provide alternative water supplies for domestic, municipal, or industrial use; amending s. 373.1961, F.S.; providing that the governing board of a water management district shall engage in planning to assist private utilities; providing legislative findings 373.1961, F.S.; providing that the governing board of a water management district shall assist private utilities in meeting water supply needs; providing legislative findings 373.1961, F.S.; providing that the governing board of a water management district may create and operate facilities to supply water to private utilities; providing legislative findings 373.1961, F.S.; providing that the governing board of a water management district may join with private utilities to carry out any of its powers; providing legislative findings and intent; requiring certain water management districts to annually budget for development of alternative water supply systems; providing for grants, matching grants, revolving loans and use of district lands or facilities to water providers and users; providing legislative intent relating to development of rate structures; providing project eligibility criteria and guidelines for such funding; requiring establishment of grants advisory committees; providing for members; providing procedure for review of proposed projects; requiring annual disbursal of all available revenues if sufficient projects are approved; providing for annual reports; amending s. 403.064, F.S.; providing for the implementation of reuse of reclaimed water upon a determination of feasibility; providing exceptions and limitations to such implementation; providing an appropriation; amending s. 373.0695, F.S.; providing that basin boards shall have certain responsibilities for planning and assisting private utilities; providing an effective date.

(Substituted for **SB 2690** on the Special Order Calendar this day.)

By Representative Ritchie and others—

HB 2733—A bill to be entitled An act relating to Escambia County; repealing chapters 72-460 and 73-455, Laws of Florida, which provide for division of duties of the clerk of the circuit court and county court and the county comptroller and election, duties, and compensation thereof; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Stafford—

HB 2739—A bill to be entitled An act relating to Broward County; amending chapter 65-1541, Laws of Florida, relating to the Downtown Development Authority of the City of Fort Lauderdale; extending the date of expiration of the chapter; providing for notice of intent; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Ascherl—

HCR 2741—A concurrent resolution relating to legislative intent with respect to CS for CS for HB 1853.

(Taken up out of order and adopted this day.)

By Representatives Boyd and Mackenzie—

HCR 2743—A concurrent resolution extending the 1995 regular legislative session under the authority of Article III, Section 3 (d) of the State Constitution; establishing limitations on the scope of legislation to be considered; providing for recess.

(Taken up out of order and adopted this day.)

By Representative Boyd—

HCR 2745—A concurrent resolution extending the 1995 regular legislative session under the authority of Article III, Section 3 (d) of the State Constitution; establishing limitations on the scope of legislation to be considered; providing for recess.

(Taken up out of order and adopted this day.)

RETURNING MESSAGES ON SENATE BILLS

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 4 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 4—A bill to be entitled An act relating to educational scholarships; amending s. 240.4125, F.S., as amended, relating to the Mary McLeod Bethune Scholarship Program; deleting provisions requiring the matching of state funds with private funds; providing for allocation of moneys; extending eligibility for scholarships to graduate students; providing an effective date.

House Amendment 1 (with Title Amendment)—On pages 1-4, strike everything after the enacting clause and insert:

Section 1. Subsections (3), (4), (6), and (7) of section 240.4125, Florida Statutes, 1994 Supplement, are amended to read:

240.4125 Mary McLeod Bethune Scholarship Program and Trust Fund.—

(3) The Legislature shall appropriate moneys to the trust fund from the General Revenue Fund. Such moneys shall be *applied to* ~~divided into~~ scholarships to be administered by the Department of Education. All moneys deposited into the trust fund shall be invested pursuant to the provisions of s. 18.125. Interest income accruing to the trust fund shall be expended to increase the total moneys available for scholarships.

(4) The moneys in the trust fund shall be allocated by the department *among* ~~to~~ the institutions of higher education listed in subsection (1) on the basis of one *$2,000* ~~$5,000~~ challenge grant for each *$1,000* ~~$5,000~~ raised from private sources. Matching funds shall be generated through contributions made after July 1, 1990, and pledged for the purposes of this section. Pledged contributions shall not be eligible for matching prior to the actual collection of the total funds. The department shall allocate to each of those institutions a proportionate share of the contributions received on behalf of those institutions and a share of the appropriations and matching funds generated by such institution.

(6) The amount of the scholarship to be granted to each recipient is $3,000 annually. Priority in the awarding of scholarships shall be given to students having financial need as determined by the institution. If funds are insufficient to provide the full amount of *the* scholarship authorized in this section to each eligible applicant, the institution may prorate available funds and make a partial award to each eligible applicant. A student may not receive an award for more than the equivalent of 8 semesters or 12 quarters over a period of 6 consecutive years, except that a student who is participating in college-preparatory instruction or who requires additional time to complete the college-level communication and computation skills testing program may continue to receive a scholarship while enrolled for the purpose of receiving college-preparatory instruction or while completing the testing program.

(7) The criteria and procedure for establishing standards of eligibility shall be determined by the department. The department shall establish a rating system upon which the institutions shall award the scholarships. *The* ~~Such~~ system must require a certification of eligibility issued by the postsecondary institution selected by the applicant.

Section 2. This act shall take effect July 1, 1995.

And the title is amended as follows:

On page 1, lines 1 through 9, strike the entire title and insert: A bill to be entitled An act relating to education; amending s. 240.4125, F.S., relating to the Mary McLeod Bethune Scholarship Program and Trust Fund; revising provisions relating to the matching of state funds with private funds; providing an effective date.

On motion by Senator Meadows, the Senate concurred in the House amendment.

CS for SB 4 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—31 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 94 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 94—A bill to be entitled An act relating to the state correctional system; amending s. 944.023, F.S.; relating to the comprehensive correctional master plan; deleting an obsolete definition of the term "lawful capacity"; providing exceptions; clarifying the terms "design capacity factors" and "maximum capacity factors"; prescribing factors to be considered in determining lawful capacity of the system; amending ss. 944.0231, 944.096, F.S.; revising the definition of the term "lawful capacity," as used in provisions governing the reduction of population in the state correctional system, to mean the total design capacity, increased by one-half or as determined by the Legislature; providing for the transfer of certain prisoners when the population exceeds the lawful capacity; reenacting s. 947.146(2), F.S., relating to the release of inmates by the Control Release Authority, to incorporate the amendment in s. 944.096, F.S., in a reference thereto; providing an effective date.

House Amendment 1 (with Title Amendment)—

Strike everything after the enacting clause and insert:

Section 1. Subsection (1), paragraph (f) of subsection (4), and subsections (5), (6), and (7) of section 944.023, Florida Statutes, are amended, and subsection (8) is added to said section, to read:

944.023 Comprehensive correctional master plan.—

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

(a) "Criminal Justice Estimating Conference" means the Criminal Justice Estimating Conference referred to in s. 216.136(5).

(b) "*Total* ~~Lawful~~ capacity" of the state correctional system means the total design capacity of all institutions and facilities in the state correctional system, *which may include those facilities authorized and funded under chapter 957,* increased by *one-half, with the following exceptions:* ~~one-third.~~

1. Medical and mental health beds must remain at design capacity.

2. Community-based contracted beds must remain at design capacity.

3. The one-inmate-per-cell requirement at Florida State Prison and other maximum security facilities must be maintained pursuant to paragraph (a) of subsection (7).

4. Community correctional centers and drug treatment centers must be increased by one-third.

5. A housing unit may not exceed its maximum capacity pursuant to paragraphs (a) and (b) of subsection (7).

6. A number of beds equal to 5 percent of total capacity shall be deducted for management beds at institutions.

(c) "State correctional system" means the correctional system as defined in s. 944.02.

(4) The comprehensive correctional master plan shall use the estimates of the Criminal Justice Estimating Conference and shall include:

(f) A plan for community-based facilities and programs for the reintegration of offenders into society whereby inmates who are being released shall receive assistance. Such assistance may be through work-release, transition assistance, release assistance stipend, contract release, postrelease special services, temporary housing, or job placement programs. ~~Special emphasis shall be placed on providing such services and postrelease supervision to those inmates identified for early release through the award of provisional credits pursuant to s. 944.277.~~

(5) The comprehensive correctional master plan shall project by year the total operating and capital outlay costs necessary for constructing *a sufficient number of* ~~enough~~ prison beds to avoid *a deficiency in prison beds* ~~the additional awards of provisional credits to inmates pursuant to s. 944.277~~. Included in the master plan which projects operating and capital outlay costs shall be a siting plan which shall assess, rank, and designate appropriate sites pursuant to s. 944.095(2)(a)-(k). The master plan shall include an assessment of the department's current capability for providing the degree of security necessary to ensure public safety and should reflect the levels of security needed for the forecasted admissions of various types of offenders based upon sentence lengths and severity of offenses. The plan shall also provide construction options for targeting violent and habitual offenders for incarceration while providing specific alternatives for the various categories of lesser offenders.

(6) Institutions within the state correctional system shall have the following design capacity factors:

(a) Rooms and prison cells between 40 square feet and 90 square feet, inclusive: one inmate per room or prison cell.

(b) Dormitory-style rooms and other rooms exceeding 90 square feet: one inmate per 55 square feet.

(c) *At institutions with rooms or cells,* except to the extent that separate confinement cells have been constructed, a number of rooms or prison cells equal to 3 percent of total design capacity must be deducted from design capacity and set aside for confinement purposes.

(d) Bed count calculations used to determine design capacity shall only include beds which are functional and available for use by inmates.

(7) Institutions within the state correctional system shall have the following maximum capacity factors:

(a) Rooms and prison cells between 40 square feet and 60 square feet, inclusive: one inmate per room or cell. If the room or prison cell is between 60 square feet and 90 square feet, inclusive, two inmates are allowed in each room, except that one inmate per room or prison cell is allowed at Florida State Prison or any other maximum security institution or facility which may be constructed.

(b) Dormitory-style rooms and other rooms exceeding 90 square feet: one inmate per 37.5 square feet. Double-bunking is generally allowed only along the outer walls of a dormitory.

(c) *At institutions with rooms or cells,* except to the extent that separate confinement cells have been constructed, a number of rooms or prison cells equal to 3 percent of total maximum capacity are not available for maximum capacity, and must be set aside for confinement purposes, thereby reducing maximum capacity by 6 percent since these rooms would otherwise house two inmates.

(d) A number of *beds* ~~rooms~~ equal to 5 percent of total maximum capacity must be *deducted for* ~~set aside as single cell~~ management *at institutions* ~~rooms and included in maximum capacity as rooms housing one inmate~~.

~~(e) Bed count calculations used to determine maximum capacity shall only include beds which are functional and available for use by inmates.~~

Section 2. Section 944.0231, Florida Statutes, 1994 Supplement, is amended to read:

944.0231 Reduction of capacity.—

(1) When the population of the state correctional system exceeds 100 percent of its *total* ~~lawful~~ capacity, *as defined in s. 944.023,* and remains in excess of 100 percent of *total* ~~lawful~~ capacity for 21 days, the Governor, pursuant to s. 252.36, *may* ~~shall~~ use his emergency powers to reduce the *population* ~~capacity~~ of the state correctional system as follows: The Governor shall inform any federal jurisdiction which has a concurrent or consecutive sentence or any active detainer placed on any prisoner in the state correctional system of his intention to transfer custody to that jurisdiction within 30 days. No prisoner shall be so transferred who is convicted of a capital felony in this state nor shall any transfer take place to any county or municipal jurisdiction within the state.

(2) When the inmate population of the state correctional system is projected, based upon the last criminal justice estimating conference, to exceed the total capacity, as defined in s. 944.023, the secretary shall develop a plan to address the projected bed-capacity deficiency. This plan shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives at least 30 days prior to the projected bed-capacity deficit occurring.

Section 3. Subsections (3) and (4) of section 944.096, Florida Statutes, are amended to read:

944.096 Inmate-to-population ratio; appropriations process; certification of bedspace need.—

(3) In the event the inmate population exceeds the *total* ~~lawful~~ capacity of the residential facilities provided by the Legislature pursuant to this section, the *control* ~~emergency~~ release procedures as defined in s. *947.146* ~~944.598~~ shall apply.

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

(a) "Criminal Justice Estimating Conference" means the designated professional staffs of the Governor's office, the Legislature, and the Supreme Court who meet in regularly scheduled meetings chaired by the state economist or his designee to forecast inmate and caseload counts and other information needed to support the state budgeting process.

(b) "*Total* ~~Lawful~~ capacity" of the state correctional system *as defined* ~~means the total capacity of all institutions and facilities in the prison system as determined by the Legislature~~ in s. 944.023(1)(b).

(c) "State correctional system" means the system as defined in s. 944.02.

Section 4. Subsection (2), paragraphs (l) and (m) of subsection (3), and paragraph (a) of subsection (6) of section 947.146, Florida Statutes, 1994 Supplement, are amended, paragraph (n) of subsection (3) of said section is added, subsection (7) of said section is repealed, and subsections (8), (9), (10), (11), (12), and (13), are redesignated as subsections (7), (8), (9), (10), (11), and (12), respectively, to read:

947.146 Control Release Authority.—

(2) The authority has as its primary purpose the implementation of a system of uniform criteria for the determination of the number and type of inmates who must be released into the community under control release in order to maintain the state prison system between 99 and 100 percent of its *total* ~~lawful~~ capacity as defined in *s. 944.023* ~~s. 944.096~~. No inmate has a right to control release. Control release is an administrative function solely used to manage the state prison population within *total*

~~lawful~~ capacity. An inmate may not receive an advancement of his control release date by an award of control release award allotments for any period of time before the date the inmate becomes statutorily eligible for control release or before the subsequent date of establishment of his advanceable control release date.

(3) A panel of no fewer than two members of the authority shall establish a control release date for each parole ineligible inmate committed to the department and incarcerated within the state, within 90 days following notification by the department of receipt of the inmate or within 90 days following the completion of proceedings revoking an offender's release and notification by the department of receipt of the inmate, except an inmate who:

(l) Is serving a sentence for an offense committed on or after January 1, 1994, for possession of a firearm or destructive device in which additional points are added to the subtotal of the offender's sentence points pursuant to s. 921.0014; ~~or~~

(m) Is serving a sentence for an offense committed on or after January 1, 1994, for possession of a semiautomatic weapon, and additional points are added to the subtotal of the offender's sentence points pursuant to s. 921.0014; *or*~~.~~

(n) Is convicted, or has been previously convicted, of committing or attempting to commit manslaughter, kidnapping, robbery, carjacking, home-invasion robbery, or a burglary under s. 810.02(2).

In making control release eligibility determinations under this subsection, the authority may rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense. The 90-day requirement for the establishment of a control release date for all eligible inmates for control release consideration does not apply to a person sentenced as a habitual felony offender.

(6) The authority has the power and duty to:

(a) Extend or advance the control release date of any inmate for whom a date has been established, based upon one or more of the following:

1. Recently discovered information of:

a. Past criminal conduct;

b. Verified threats by inmates provided by victims, law enforcement, or the department;

c. Potential risk to or vulnerability of a victim;

d. Psychological or physical trauma to the victim due to the criminal offense;

e. Court-ordered restitution;

f. History of abuse or addiction to a chemical substance verified by a presentence or postsentence investigation report;

g. The inmate's ties to organized crime;

h. A change in the inmate's sentence structure;

i. Cooperation with law enforcement;

j. Strong community support; and

k. A documented mental condition as a factor for future criminal behavior.

2. The recommendation of the department regarding:

a. A medical or mental health-related condition; or

b. Institutional adjustment of the inmate, which may include refusal by the inmate to sign the agreement to the conditions of the release plan.

3. *Total* ~~Lawful~~ capacity of the state prison system.

~~(7) If the population of the state correctional system, as defined in s. 944.02, exceeds 100 percent of lawful capacity and remains in excess of 100 percent of lawful capacity for 14 days, the Secretary of Corrections shall notify the chair of the Parole Commission and certify to the chair the lawful capacity of the state correctional system and the current population. Upon receiving such certification, the chair of the Parole Commission shall advise the Governor that a state of emergency exists. When the Governor verifies the state of emergency to the Control Release Authority by letter, the Control Release Authority shall establish emergency control release dates for inmates who are ineligible for parole, who are excluded from control release under paragraph (3)(a), paragraph (3)(b), paragraph (3)(g), or paragraph (3)(h), and who the authority determines are the most suitable for release. Under no circumstances shall an inmate convicted of a capital felony be eligible for emergency control release.~~

~~(a) The authority shall extend or advance emergency control release dates pursuant to this section.~~

~~(b) The authority shall maintain the inmate population between 99 and 100 percent of lawful capacity by releasing inmates on emergency control release as well as control release as otherwise provided in this section.~~

~~(c) A state of emergency ceases to exist when the inmate population drops to less than 100 percent of lawful capacity and remains at or below that level for 30 consecutive days without requiring the release of inmates through the establishment of additional emergency control release dates.~~

~~(d) Nothing in this subsection prohibits the establishment of a control release date under other provisions of this section or creates any right to an early release for any inmate. An inmate has no right to be reviewed for the establishment of an emergency control release date. The establishment of emergency control release dates under this subsection is solely an administrative function used to manage the prison population within lawful capacity.~~

~~(e) When a state of emergency ceases to exist pursuant to paragraph (c), all emergency control release dates must be suspended and no inmate is eligible for release under any previously established emergency control release date.~~

Section 5. Section 957.16, Florida Statutes, is created to read:

957.16 Expanding capacity.—The commission is authorized to modify and execute agreements with contractors to expand up to the total capacity of contracted correctional facilities. Total capacity means the design capacity of all contracted correctional facilities increased by one-half as described under s. 944.023(1)(b). Any additional beds authorized under this section must comply with the cost savings requirements set forth in s. 957.07. Any additional beds authorized as a result of expanded capacity under this section are contingent upon specified appropriations.

Section 6. This act shall take effect upon becoming a law.

And the title is amended as follows:

Strike entire title and insert: A bill to be entitled An act relating to design capacity of the state correctional system; amending s. 944.023, F.S., relating to the comprehensive correctional master plan; defining "total capacity" and deleting provisions relating to "lawful capacity"; amending s. 944.0231, F.S.; revising provisions relating to reduction of capacity; amending s. 944.096, F.S.; conforming language and deleting obsolete terminology; amending s. 947.146, F.S., relating to control release, to restrict eligibility, to conform to the act and to delete provisions relating to a state of emergency regarding inmate population; creating s. 957.16, F.S.; authorizing commission to modify correctional facility contracts to expand the total capacity; providing cross-references; providing that additional beds authorized are contingent upon specific appropriations; providing an effective date.

On motion by Senator Burt, the Senate concurred in the House amendment.

CS for SB 94 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—35 Nays—1

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 152 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 152—A bill to be entitled An act relating to economic development; establishing in the Department of Commerce the Rural Community Development Revolving Loan Fund Program for certain purposes; providing duties of the Department of Commerce; requiring the Department of Commerce to adopt rules; providing for a Rural Community Development Revolving Loan Fund Program Committee to review and approve loan applications; providing for membership; requiring an annual report on program activities; creating a pilot program within the Department of Commerce for the funding of regionally based economic development organizations representing rural counties and communities in economic and fiscal distress and for building the professional capacity of locally organized, regional organizations; providing criteria for eligibility for matching grants; providing for funding; requiring a report; providing for rulemaking; amending s. 403.953, F.S.; revising the eligibility requirements for projects covered by the act; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 6, strike line 16, and insert:

Section 4. Effective January 1, 1996, subsection (11) is added to section 159.803, Florida Statutes, 1994 Supplement, to read:

159.803 Definitions.—As used in this part, the term:

(11) "Florida First Business project" means any project which is certified by the Department of Commerce as eligible to receive an allocation from the Florida First Business allocation pool established pursuant to s. 159.8083. The Department of Commerce may certify those projects meeting the criteria set forth in s. 288.106(4)(b) or any project providing a substantial economic benefit to this state.

Section 5. Effective January 1, 1996, paragraph (b) of subsection (1), paragraph (a) of subsection (2), and subsection (4) of section 159.804, Florida Statutes, are amended, and subsection (5) is added to said section, to read:

159.804 Allocation of state volume limitation.—The division shall annually determine the amount of private activity bonds permitted to be issued in this state under the Code and shall make such information available upon request to any person or agency. The total amount of private activity bonds authorized to be issued in this state pursuant to the Code shall be initially allocated as follows on January 1 of each year:

(1)

(b) If on January 1 of any year, under federal law, bonds for manufacturing facilities no longer require or are eligible for an allocation pursuant to s. 146 of the Code, the allocation of the state volume limitation in the manufacturing facility pool shall be divided among the remaining pools in the following manner: *50* ~~60~~ percent to be shared by the 16 regions for use in the manner prescribed in subsection (2); 25 percent for use by the Florida Housing Finance Agency in the manner prescribed in subsection (3); *5* ~~and 15~~ percent for use in the state allocation pool in the manner prescribed in subsection (4), *and 20 percent for use in the Florida First Business allocation pool in the manner prescribed in subsection (5).*

(2)(a) *Fifty* ~~Sixty~~ percent of the state volume limitation remaining after the allocation made pursuant to subsection (1) shall be allocated among the regions established in paragraph (b) for use by all agencies whose boundaries are coterminous with or contained within each region. The volume limitation for each regional allocation pool must be an amount that bears the same ratio to *50* ~~60~~ percent of the state volume limitation remaining after the allocation made pursuant to subsection (1) for such calendar year as the population of the region bears to the population of the entire state.

(4) *Five* ~~Fifteen~~ percent of the state volume limitation remaining after the allocation made pursuant to subsection (1) shall be allocated to the state allocation pool, for use as provided in s. 159.807.

(5) Twenty percent of the state volume limitation remaining after the allocation made pursuant to subsection (1) shall be allocated to the Florida First Business allocation pool, to be used as provided in s. 159.8083

Section 6. Subsection (1) of section 159.805, Florida Statutes, is amended to read:

159.805 Procedures for obtaining allocations; requirements; limitations on allocations; issuance reports.—

(1) Except for bonds issued prior to July 1 of each year utilizing an allocation pursuant to s. 159.804(3), prior to the issuance of any private activity bond by or on behalf of any agency, a notice of intent to issue such bonds must be filed in writing by or on behalf of such agency with the division to obtain a written confirmation of an allocation for such issue. The notice of intent to issue shall not be filed until elected official or voter approval, if any, required pursuant to s. 147(f) of the Code has been obtained. A notice of intent to issue shall be filed only by either the agency proposing to issue private activity bonds or any agency required to give elected official or voter approval for such bonds pursuant to s. 147(f) of the Code. Each such notice of intent to issue a private activity bond filed with the division must include a certification that approval, if needed, has been obtained, a statement of the amount of private activity bonds proposed to be issued, the fee required by s. 159.811, *an opinion or statement of counsel that the project to be financed may be financed with private activity bonds and that allocation is required to issue such bonds,* and such additional information as the division considers appropriate. At 12 noon Tallahassee time each business day, the division shall compute the aggregate amount of private activity bonds in each pool for which notices of intent to issue have been received since noon on the previous business day. Except for priority projects, written confirmations of allocations shall be issued by the director for private activity bonds, subject to the availability of a sufficient amount of state volume limitation of private activity bonds permitted to be issued in this state. Each confirmation must state the amount of the allocation made for such bonds. The amount of each such confirmation must, if sufficient allocation is available in the appropriate pool, be the amount of the allocation requested in the notice of intent to issue. A written confirmation for a private activity bond may be issued based on one or more of the initial allocations provided by s. 159.804. The director shall maintain continuous and cumulative records of the amounts of private activity bonds for which written confirmations of an allocation have been issued.

Section 7. Effective January 1, 1996, subsection (3) of section 159.807, Florida Statutes, is amended to read:

159.807 State allocation pool.—

(3) *After November 16 of each year* ~~Except for priority projects, other than manufacturing facilities, which are eligible to receive allocations from the state allocation pool at any time during the year, after April 1 of each year the state allocation pool may only be used after the allocation pool for a region has been totally exhausted through written confirmations issued pursuant to s. 159.806 or when the regional allocation pool is inadequate to completely provide an allocation for a private activity bond or when the manufacturing facility bond pool established by s. 159.8081 is unavailable. If the allocation pool of a region has been exhausted or the manufacturing facility bond pool is unavailable~~, all written confirmations for issues of private activity bonds by agencies in *a* ~~that~~ region or for manufacturing facility projects must be issued based on available portions of the state allocation pool.

Section 8. Subsection (2) of section 159.8081, Florida Statutes, is amended, and subsection (3) is added to said section, to read:

159.8081 Manufacturing facility bond pool.—

(2) The first 75 percent of this pool shall be available on a first-come, first-served basis. Prior to issuing any written confirmations for the remaining 25 percent of this pool, the director shall forward all notices of intent to issue which are received by the division for manufacturing facility projects to the Department of Commerce. The Department of Commerce and the Department of Community Affairs shall decide, after receipt of the notices of intent to issue, which notices will receive written confirmations. Such decision shall be communicated in writing by the Department of Commerce to the director within 10 days of receipt of such notices of intent to issue. The Department of Commerce, in consultation with the Department of Community Affairs, shall develop rules to ensure that allocation of the remaining 25 percent is consistent with the state's economic development policy.

(3) Any written confirmation issued by the director pursuant to this section has no effect unless the bonds to which such confirmation applies have been issued by the agency and written notice of such issu-

ance has been provided to the director within 90 calendar days after the date the confirmation was issued or November 15, whichever occurs earlier.

Section 9. Effective January 1, 1996, section 159.8083, Florida Statutes, is created to read:

159.8083 Florida First Business allocation pool.—The Florida First Business allocation pool is hereby established. The Florida First Business allocation pool shall be available solely to provide written confirmation for private activity bonds to finance Florida First Business projects certified by the Department of Commerce as eligible to receive a written confirmation. Allocations from such pool shall be awarded statewide pursuant to procedures specified in s. 159.805, except that the provisions of s. 159.805(2), (3), and (6) do not apply. Florida First Business projects that are eligible for a carry-forward shall not lose their allocation on November 16 if they have applied and have been granted a carry-forward. In issuing written confirmations of allocations for Florida First Business projects, the division shall use the Florida First Business allocation pool. If allocation is not available from the Florida First Business allocation pool, the division shall issue written confirmations of allocations for Florida First Business projects pursuant to s. 159.806 or s. 159.807, in such order. For the purpose of determining priority within a regional allocation pool or the state allocation pool, notices of intent to issue bonds for Florida First Business projects to be issued from a regional allocation pool or the state allocation pool shall be considered to have been received by the division at the time it is determined by the division that the Florida First Business allocation pool is unavailable to issue confirmation for such Florida First Business project. If the total amount requested in notices of intent to issue private activity bonds for Florida First Business projects exceeds the total amount of the Florida First Business allocation pool, the director shall forward all timely notices of intent to issue, which are received by the division for such projects, to the Department of Commerce which shall render a decision as to which notices of intent to issue are to receive written confirmations. The Department of Commerce, in consultation with the division, shall develop rules to ensure that the allocation provided in such pool is available solely to provide written confirmations for private activity bonds to finance Florida First Business projects and that such projects are feasible and financially solvent.

Section 10. Effective January 1, 1996, section 159.809, Florida Statutes, is amended to read:

159.809 Recapture of unused amounts.—

(1) On April 1 of each year, any portion of each initial allocation made pursuant to s. 159.804(4) for which a written confirmation has not been issued by the director or for which an issuance report for bonds utilizing such an allocation has not been received by the division prior to such date shall be added to the Florida First Business allocation pool.

(2)~~(1)~~ On July 1 of each year, any portion of each initial allocation made pursuant to s. 159.804(2) or s. 159.804(3) for which a written confirmation has not been issued by the director or for which an issuance report for bonds utilizing such an allocation has not been received by the division prior to that date shall be added to the *Florida First Business* ~~state~~ allocation pool.

(3)~~(2)~~ On November 16 of each year, any portion of the initial allocation, made pursuant to s. 159.804(1), *s. 159.804(5), or subsections (1) or (2), other than as provided in s. 159.8083,* for which an issuance report for bonds utilizing such an allocation has not been received by the division prior to that date shall be added to the state allocation pool.

Section 11. Except as provided herein, this act shall take effect July 1, 1995.

And the title is amended as follows:

On page 1, line 24, after the semicolon (;) insert: amending s. 159.803, F.S.; providing a definition; amending s. 159.804, F.S.; revising certain percentages with respect to allocation of the state volume limitation on private activity bonds; amending s. 159.807, F.S.; revising certain provisions for issuance of written confirmations for issues of private activity bonds by agencies; amending s. 159.8081, F.S.; limiting the effect of a written confirmation of the director of the Division of Bond Finance under certain circumstances; creating s. 159.8083, F.S.; providing for an allocation pool for Florida First Businesses; specifying uses of such pool; providing procedures; providing requirements; amending s. 159.809, F.S.; revising provisions providing for recapture of unused amounts of certain initial allocations of private activity bonds; providing for adding certain portions of initial allocations to the Florida First Business allocation pool;

On motion by Senator Burt, the Senate concurred in the House amendment.

SB 152 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—1

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 166 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 166—A bill to be entitled An act relating to the confidentiality of certain health care information; repealing s. 119.07(3)(r) and (v), F.S., relating to the confidentiality of health maintenance organization patient data and the confidentiality of trauma registry data; reenacting, transferring, and amending s. 395.404, F.S.; providing an exemption from the public records law for trauma registry data; restating the exemption from the public records law for trauma quality-assurance records or reports; providing an exemption from the open meetings law for trauma quality-assurance proceedings; providing rationale for the exemptions; amending s. 395.4025, F.S.; repealing an obsolete cross-reference; reenacting and amending s. 401.425(8), F.S.; restating the exemption from the public records law for emergency medical services quality-assurance records or reports; providing an exemption from the open meetings law for emergency medical services quality-assurance proceedings; providing rationale for the exemption; reenacting and amending s. 381.004(3)(h), F.S.; restating the exemption of hospital patient Human Immunodeficiency Virus test results from the public records law; providing for subsequent review and repeal; reenacting and amending s. 384.25(5), F.S.; restating the exemption of certain Human Immunodeficiency Virus test results from the public records law; providing for future review; amending and renumbering s. 119.16, F.S., which provides an exemption from public records and public meeting requirements for certain public hospital records and meetings of public hospital governing boards; saving such exemptions from repeal; revising the records and meetings to which such exemptions apply; providing exemptions for meetings at which certain confidential records are discussed and for records generated at exempt meetings; requiring that transcripts be made of closed meetings; removing a condition under which public records and meeting exemptions cease; providing for future review and repeal; providing a finding of public necessity; reenacting s. 395.1046(3), F.S., relating to the confidentiality of hospital complaint investigations; reenacting and amending s 395.3025(2), (7), F.S.; exempting from the public records law patient psychiatric records and records of treatment for mental or emotional conditions; exempting from the public records law patient record information received by a public agency; providing for future review and repeal; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 3, line 1, through page 7, line 25, and on page 13, line 1, through page 15, line 23, strike all said lines and renumber subsequent sections.

And the title is amended as follows:

In title, on page 1, line 1, strike everything before the enacting clause and insert: An act relating to confidentiality of public hospital records and meetings; amending and renumbering s. 119.16, F.S., which provides an exemption from public records and public meeting requirements for certain public hospital records and meetings of public hospital governing boards; saving such exemptions from repeal; revising the records and meetings to which such exemptions apply; providing exemptions for meetings at which certain confidential records are discussed and for records generated at exempt meetings; requiring that transcripts be made of closed meetings; removing a condition under which public records and meeting exemptions cease; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

On motion by Senator Gutman, the Senate concurred in the House amendment.

SB 166 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

RECONSIDERATION

On motion by Senator Gutman, the Senate reconsidered the vote by which **SB 166** passed as amended.

On motion by Senator Gutman, the Senate reconsidered the vote by which the Senate concurred in **House Amendment 1** to **SB 166**.

Senator Gutman moved the following amendment which was adopted:

Senate Amendment 1 to House Amendment 1—On page 1, strike all of lines 11 and 12 and insert: On page 14, line 5, through page 15, line 23

On motion by Senator Gutman the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendment to the House amendment.

SB 166 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 168 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 168—A bill to be entitled An act relating to career criminals; creating the "Officer Evelyn Gort Career Criminal Act"; providing for minimum mandatory terms of imprisonment for "career criminals," as defined; providing a limitation on the period during which an offense is considered a prior offense for purposes of sentencing a person as a career criminal; authorizing the award of certain gain-time for a person sentenced as a career criminal; providing that the requirements for sentencing career criminals do not preclude imposing the death penalty in capital cases; providing for the early release of a person sentenced as a career criminal if the Governor certifies that an emergency exists and the Governor and Cabinet determine that the person is suitable for early release; providing for the revocation of early release; amending s. 790.23, F.S.; providing a minimum mandatory term of imprisonment for certain persons convicted of unlawful possession of firearms, electric weapons or devices, or other weapons; providing applicability; providing for the early release of a person convicted of unlawful possession of firearms or other weapons if the Governor certifies that an emergency exists and the Governor and Cabinet determine that the person is suitable for early release; providing for the revocation of early release; providing an effective date.

House Amendment 1 (with Title Amendment)—

Strike everything after the enacting clause and insert:

Section 1. Sections 2 through 7 of this act may be cited as the "Officer Evelyn Gort and All Fallen Officers Career Criminal Act of 1995."

Section 2. Section 775.084, Florida Statutes, is amended to read:

775.084 *Violent career criminals;* habitual felony offenders and habitual violent felony offenders; ~~extended terms;~~ definitions; procedure; *enhanced* penalties.—

(1) As used in this act:

(a) "Habitual felony offender" means a defendant for whom the court may impose an extended term of imprisonment, as provided in *paragraph (4)(a)* ~~this section~~, if it finds that:

1. The defendant has previously been convicted of any combination of two or more felonies in this state or other qualified offenses;

2. The felony for which the defendant is to be sentenced was committed within 5 years of the date of the conviction of the *defendant's* last prior felony or other qualified offense ~~of which he was convicted~~, or within 5 years of the defendant's release, on parole or otherwise, from a prison sentence or other commitment imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later;

3. The felony for which the defendant is to be sentenced, and one of the two prior felony convictions, is not a violation of s. 893.13 relating to the purchase or the possession of a controlled substance;

4. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this *paragraph* ~~section~~; and

5. A conviction of a felony or other qualified offense necessary to the operation of this *paragraph* ~~section~~ has not been set aside in any postconviction proceeding.

(b) "Habitual violent felony offender" means a defendant for whom the court may impose an extended term of imprisonment, as provided in *paragraph (4)(b)* ~~this section~~, if it finds that:

1. The defendant has previously been convicted of a felony or an attempt or conspiracy to commit a felony and one or more of such convictions was for:

a. Arson,~~;~~

b. Sexual battery,~~;~~

c. Robbery,~~;~~

d. Kidnapping,~~;~~

e. Aggravated child abuse,~~;~~

f. Aggravated assault,~~;~~

g. Murder,~~;~~

h. Manslaughter,~~;~~

i. Unlawful throwing, placing, or discharging of a destructive device or bomb,~~;~~

j. Armed burglary,~~; or~~

k. Aggravated battery; *or*

l. Aggravated stalking;

2. The felony for which the defendant is to be sentenced was committed within 5 years of the date of the conviction of the last prior enumerated felony or within 5 years of the defendant's release, on parole or otherwise, from a prison sentence or other commitment imposed as a result of a prior conviction for an enumerated felony, whichever is later;

3. The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this *paragraph* ~~section~~; and

4. A conviction of a crime necessary to the operation of this *paragraph* ~~section~~ has not been set aside in any postconviction proceeding.

(c) "Violent career criminal" means a defendant for whom the court must impose imprisonment pursuant to paragraph (4)(c), if it finds that:

1. The defendant has previously been convicted as an adult three or more times for an offense in this state or other qualified offense that is:

a. Any forcible felony, as described in s. 776.08;

b. Aggravated stalking, as described in s. 784.048(3) and (4);

c. Aggravated child abuse, as described in s. 827.03;

d. Lewd, lascivious, or indecent conduct, as described in s. 800.04;

e. Escape, as described in s. 944.40; or

f. A felony violation of chapter 790 involving the use or possession of a firearm.

2. The defendant has been incarcerated in a state prison or a federal prison.

3. The primary felony offense for which the defendant is to be sentenced is a felony enumerated in subparagraph 1. and was committed on

or after October 1, 1995, and within 5 years after the conviction of the last prior enumerated felony or within 5 years after the defendant's release, on parole or otherwise, from a prison sentence or other commitment imposed as a result of a prior conviction for an enumerated felony, whichever is later.

4. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph.

5. A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(d)~~(c)~~ "Qualified offense" means any offense, substantially similar in elements and penalties to an offense in this state, which is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction, that was punishable under the law of such jurisdiction at the time of its commission by the defendant by death or imprisonment exceeding 1 year.

(2) For the purposes of this section, the placing of a person on probation without an adjudication of guilt shall be treated as a prior conviction if the subsequent offense for which he is to be sentenced was committed during such probationary period.

(3)*(a)* In a separate proceeding, the court shall determine if the defendant is a habitual felony offender or a habitual violent felony offender. The procedure shall be as follows:

1.~~(a)~~ The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a habitual felony offender or a habitual violent felony offender.

2.~~(b)~~ Written notice shall be served on the defendant and *the defendant's* ~~his~~ attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence *in order to* ~~so as to~~ allow the preparation of a submission on behalf of the defendant.

3.~~(c)~~ Except as provided in *subparagraph 1.* ~~paragraph (a)~~, all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

4.~~(d)~~ Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

5.~~(e)~~ For the purpose of identification of a habitual felony offender or a habitual violent felony offender, the court shall fingerprint the defendant pursuant to s. 921.241.

6. For an offense committed on or after October 1, 1995, the court must sentence a defendant who meets the criteria for a habitual felony offender or a habitual violent felony offender to imprisonment pursuant to paragraph (4)(a) or (b) unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence a defendant who meets the criteria for sentencing as a habitual felony offender or a habitual violent felony offender to imprisonment pursuant to paragraph (4)(a) or (b), the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. The court shall submit monthly reports to the Sentencing Commission regarding habitual felony offender or habitual violent felony offender sentencing under this section, and the reports shall include the written reasons or transcripts in each case in which the court determines not to impose such sentence.

(b) In a separate proceeding, the court shall determine if the defendant is a violent career criminal, with respect to a primary offense committed on or after October 1, 1995. The procedure shall be as follows:

1. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

2. All evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

3. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable only as provided in paragraph (c).

4. For the purpose of identification, the court shall fingerprint the defendant pursuant to s. 921.241.

5. For an offense committed on or after October 1, 1995, the court must sentence a defendant who meets the criteria for a violent career criminal to imprisonment pursuant to paragraph (4)(c) unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence a defendant who meets the criteria for sentencing as a violent career criminal to imprisonment pursuant to paragraph (4)(c), the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. The court shall submit monthly reports to the Sentencing Commission regarding violent career criminal sentencing under this section, and the reports shall include the written reasons or transcripts in each case in which the court determines not to impose such sentence.

(c)1. A person sentenced under paragraph (4)(c) as a violent career criminal has the right of direct appeal, and either the state or the defendant may petition the trial court to vacate an illegal sentence at any time. However, the determination of the trial court to impose or not to impose a violent career criminal sentence is presumed appropriate and no petition or motion for collateral or other postconviction relief may be considered based on an allegation either by the state or the defendant that such sentence is inappropriate, inadequate, or excessive.

2. It is the intent of the Legislature that, with respect to both direct appeal and collateral review of violent career criminal sentences, all claims of error or illegality be raised at the first opportunity and that no claim should be filed more than 2 years after the judgment and sentence became final, unless it is established that the basis for the claim could not have been ascertained at the time by the exercise of due diligence. Technical violations and mistakes at trials and sentencing proceedings involving violent career criminals that do not affect due process or fundamental fairness are not appealable by either the state or the defendant.

3. It is the intent of the Legislature that no funds, resources, or employees of the state or its political subdivisions be used, directly or indirectly, in appellate or collateral proceedings based on violent career criminal sentencing, except when such use is constitutionally or statutorily mandated.

(4)(a) The court, in conformity with the procedure established in subsection (3)*(a)*, shall sentence the habitual felony offender as follows:

1. In the case of a *life felony or a* felony of the first degree, for life.

2. In the case of a felony of the second degree, for a term of years not exceeding 30.

3. In the case of a felony of the third degree, for a term of years not exceeding 10.

(b) The court, in conformity with the procedure established in subsection (3)(a), may sentence the habitual violent felony offender as follows:

1. In the case of a *life felony or a* felony of the first degree, for life, and such offender shall not be eligible for release for 15 years.

2. In the case of a felony of the second degree, for a term of years not exceeding 30, and such offender shall not be eligible for release for 10 years.

3. In the case of a felony of the third degree, for a term of years not exceeding 10, and such offender shall not be eligible for release for 5 years.

(c) The court, in conformity with the procedure established in subsection (3)(b), shall sentence the violent career criminal as follows:

1. In the case of a life felony or a felony of the first degree, for life.

2. In the case of a felony of the second degree, for a term of years not exceeding 40, with a mandatory minimum term of 30 years' imprisonment.

3. In the case of a felony of the third degree, for a term of years not exceeding 15, with a mandatory minimum term of 10 years' imprisonment.

An offender sentenced under this paragraph is not eligible for any form of discretionary early release except conditional medical release under s. 947.149.

(d)~~(c)~~ If the court *finds, pursuant to subparagraph (3)(a)6. or subparagraph (3)(b)5., that it is not necessary for the protection of the public to sentence a defendant who meets the criteria for sentencing as a habitual felony offender, a habitual violent felony offender, or a violent career criminal, with respect to an offense committed on or after October 1, 1995,* ~~decides that imposition of sentence under this section is not necessary for the protection of the public,~~ sentence shall be imposed without regard to this section.

(e) At any time when it appears to the court that the defendant is *eligible for sentencing under this section* ~~a habitual felony offender or a habitual violent felony offender~~, the court shall make that determination as provided in *paragraph* ~~subsection~~ (3)*(a) or (b)*.

(f)~~(d)~~ A sentence imposed under this section shall not be increased after such imposition.

(g)~~(e)~~ A sentence imposed under this section is not subject to s. 921.001.

(h) The provisions of this section do not apply to capital felonies, and a sentence authorized under this section does not preclude the imposition of the death penalty for a capital felony. ~~The provisions of s. 947.146 shall be applied to persons sentenced as habitual offenders under paragraph (1)(a), but shall not be applied to persons sentenced as habitual violent felony offenders under paragraph (1)(b).~~

(i) The provisions of s. 947.1405 shall apply to persons sentenced as habitual felony offenders and persons sentenced as habitual violent felony offenders.

(j)1. A defendant sentenced under this section *as a habitual felony offender or a habitual violent felony offender* is not eligible for gain-time granted by the Department of Corrections, except that the department may grant up to 25 days of incentive gain-time each month as provided in s. 944.275(4).

2. For an offense committed on or after October 1, 1995, a defendant sentenced under this section as a violent career criminal is not eligible for gain-time granted by the Department of Corrections, except the department may grant up to 5 days of incentive gain-time each month as provided in s. 944.275(4)(b)3. An inmate is not eligible to earn any type of gain-time that would cause the inmate's sentence to expire, end, or terminate, or that would result in the inmate's release, prior to serving a minimum of 85 percent of the court-imposed sentence. The department shall not grant further gain-time awards to an inmate whose tentative release date is the same as the date at which the inmate will have served 85 percent of the court-imposed sentence. Discretionary early release, other than pardon, executive clemency, or conditional medical release granted pursuant to s. 947.149, is expressly prohibited.

(5) In order to be counted as a prior felony for purposes of sentencing under this section, the felony must have resulted in a conviction sentenced separately prior to the current offense and sentenced separately from any other felony conviction that is to be counted as a prior felony.

(6) The purpose of this section is to provide uniform punishment for those crimes made punishable under this section, and to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

Section 3. Section 775.08401, Florida Statutes, is amended to read:

775.08401 Habitual offenders and habitual violent felony offenders; *violent career criminals;* eligibility criteria.—

(1) The state attorney in each judicial circuit shall adopt uniform criteria to be used *when deciding to pursue:*

(a) Habitual felony offender or habitual violent felony offender sanctions; or

(b) With respect to an offense committed on or after October 1, 1995, violent career criminal sanctions ~~in determining if an offender is eligible to be sentenced as a habitual offender or a habitual violent felony offender~~.

The criteria for each circuit shall be kept on file by the Florida Prosecuting Attorneys Association, Inc.

(2) The criteria shall be designed to ensure fair and impartial application of *s. 775.084* ~~the habitual offender statute~~.

(3)(a) A deviation from this criteria must be explained in writing, signed by the state attorney, and placed in the case file maintained by the state attorney.

(b) On a quarterly basis, each state attorney shall submit copies of deviation memoranda regarding offenses committed on or after October 1, 1995, to the president of the Florida Prosecuting Attorneys Association, Inc. The assocation must maintain such information for at least a 10-year period.

(4) A deviation from the adopted criteria is not subject to appellate review.

Section 4. Section 775.0841, Florida Statutes, is amended to read:

775.0841 Legislative findings and intent.—The Legislature ~~hereby~~ finds ~~that~~ a substantial and disproportionate number of serious crimes *are* ~~is~~ committed in Florida by a relatively small number of ~~multiple and~~ repeat *and violent* felony offenders, commonly known as career criminals. The Legislature further finds that priority should be given to the investigation, apprehension, and prosecution of career criminals in the use of law enforcement resources and to the incarceration of career criminals in the use of available prison space. The Legislature intends to initiate and support increased efforts by state and local law enforcement agencies and state attorneys' offices to investigate, apprehend, and prosecute career criminals and to incarcerate them for extended terms*; and, in the case of violent career criminals, such extended terms must include substantial mandatory minimum terms of imprisonment.*

Section 5. Section 775.0842, Florida Statutes, is amended to read:

775.0842 Persons subject to career criminal prosecution efforts.—A person who is under arrest for the commission, attempted commission, or conspiracy to commit any felony in this state shall be the subject of career criminal prosecution efforts provided that such person qualifies as a habitual felony offender or a habitual violent felony offender, *or a violent career criminal,* under s. 775.084.

Section 6. Section 775.0843, Florida Statutes, is amended to read:

775.0843 Policies to be adopted for career criminal cases.—

(1) Criminal justice agencies ~~within this state~~ shall employ enhanced law enforcement management efforts and resources for the investigation, apprehension, and prosecution of career criminals. Each state attorney, sheriff, and the police chief of each municipality ~~with a population in excess of 50,000~~ shall *provide for or participate in* ~~designate~~ a career criminal *prosecution* program *to coordinate* ~~coordinator with primary responsibility for coordinating~~ the efforts contemplated by this section and ss. 775.0841 and 775.0842. Enhanced law enforcement efforts and resources ~~shall~~ include, but *are* not ~~be~~ limited to:

(a) Assignment of highly qualified investigators and prosecutors to career criminal cases.

(b) Significant reduction of caseloads for investigators and prosecutors assigned to career criminal cases.

(c) Coordination with federal, state, and local criminal justice agencies to facilitate the collection and dissemination of criminal investigative and intelligence information relating to those persons meeting the criteria of a career criminal.

(2) Each state attorney's office shall establish a career criminal prosecution unit and ~~may~~ adopt and implement policies based on the following guidelines:

(a) All reasonable prosecutorial efforts shall be made to resist the pretrial release of a charged defendant meeting career criminal ~~selection~~ criteria.

(b) A plea of guilty or a trial conviction shall be sought on each offense charged in the accusatory pleadings against an individual meeting career criminal ~~selection~~ criteria.

(c) All reasonable prosecutorial efforts shall be made to reduce the time between arrest and disposition of charges against an individual meeting career criminal ~~selection~~ criteria.

(d) All reasonable prosecutorial efforts shall be made to persuade the court to impose the most severe sanction authorized upon a person convicted after prosecution as a career criminal.

(3) This section does not prohibit a plea agreement in the interest of justice when there are codefendants and the prosecuting attorney determines that the information or testimony of the defendant making the agreement is necessary for the conviction of one or more of the other codefendants. The court may condition its acceptance of such plea agreement on the provision of such information or testimony by such defendant.

(4) Law enforcement agencies ~~within this state~~ shall employ enhanced law enforcement management efforts and resources in the investigation, apprehension, and prosecution of career criminals. Enhanced law enforcement efforts and resources ~~shall~~ include, but *are* not ~~be~~ limited to:

(a) Crime analysis, consisting of the timely collection and study of local crime data to ~~accomplish the following~~:

1. Identify evolving or existing crime patterns involving career criminals.

2. Provide investigative leads.

3. Isolate and identify geographical areas or population groups experiencing severe crime problems in order to improve crime prevention efforts.

4. Provide supporting data for improved allocation of overall law enforcement agency resources.

(b) Improved management of investigative operations involving use of information resulting from crime analysis, which may include participation in multijurisdictional investigative and mutual-aid units and measures to increase continuity of investigative efforts from the initial response through the arrest and prosecution of the offender.

(5) Each career criminal apprehension program shall concentrate on the identification and arrest of career criminals and the support of subsequent prosecution ~~of such career criminals~~. The determination of which suspected felony offenders shall be the subject of career criminal apprehension efforts shall be made in accordance with written target selection criteria selected by the individual law enforcement agency and state attorney consistent with the provisions of this section and *ss. 775.08401 and* ~~s.~~ 775.0842.

(6) Each career criminal apprehension program, as one of its functions, shall maintain coordination with the prosecutor assigned to each case resulting from its efforts. This coordination shall include, but *is* not ~~be~~ limited to, case preparation, processing, and adjudication.

Section 7. Section 790.235, Florida Statutes, is created to read:

790.235 Possession of firearm by violent career criminal unlawful; penalty.—

(1) Any person who meets the violent career criminal criteria under s. 775.084(1)(c), regardless of whether such person is or has previously been sentenced as a violent career criminal, who owns or has in his or her care, custody, possession, or control any firearm or electric weapon or device, or carries a concealed weapon, including a tear gas gun or chemical weapon or device, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted of a violation of this section shall be sentenced to a mandatory minimum of 15 years' imprisonment; however, if the person would be sentenced to a longer term of imprisonment under s. 775.084(4)(c), the person must be sentenced under that provision. A person convicted of a violation of this section is not eligible for any form of discretionary early release, other than pardon, executive clemency, or conditional medical release under s. 947.149.

(2) For purposes of this section, the previous felony convictions necessary to meet the violent career criminal criteria under s. 775.084(1)(c) may be convictions for felonies committed as an adult or adjudications of delinquency for felonies committed as a juvenile. In order to be counted as a prior felony for purposes of this section, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense, and sentenced or adjudicated separately from any other felony that is to be counted as a prior felony.

(3) This section shall not apply to a person whose civil rights and firearm authority have been restored.

Section 8. Subsection (2) is added to section 741.31, Florida Statutes, 1994 Supplement, to read:

741.31 Violation of an injunction for protection against domestic violence.—

(2) Any person who suffers an injury and/or loss as a result of a violation of an injunction for protection against domestic violence may be awarded damages for that injury and/or loss by the court issuing the injunction. Damages includes costs and attorneys fees for enforcement of the injunction.

Section 9. Section 768.35, Florida Statutes, is created to read:

768.35 Continuing domestic violence.—

(1) A victim of domestic violence, as defined in s. 741.28, who has suffered repeated physical or psychological injuries over an extended period of time, as a result of continuing domestic violence, has a cause of action against the perpetrator responsible for the violence.

(2) The action may be brought in any court of competent jurisdiction to recover compensatory and punitive damages against the perpetrator causing the continued domestic violence. No plaintiff however, may recover twice for the same incident which gives rise to the cause of action.

(3) Actions for recovery under this section must be commenced within four years. The time within which an action for recovery under this section must be begun runs from the time the last incident of domestic violence occurs.

(4) Notwithstanding any other provision of law, punitive damages awarded in any civil tort action involving domestic violence as defined in s. 741.28 shall not be governed by the provisions of s. 768.73. The state hereby waives its right to collect any punitive damages from any victim of domestic violence not collected as of the effective date of this act.

Section 10. Paragraphs (a) and (c) of subsection (8) and paragraph (a) of subsection (9) of section 784.046, Florida Statutes, 1994 Supplement, are amended to read:

784.046 Action by victim of repeat violence for protective injunction; powers and duties of court and clerk of court; filing and form of petition; notice and hearing; temporary injunction; issuance; statewide verification system; enforcement.—

(8)(a)1. The clerk of the court shall furnish a copy of the petition, notice of hearing, and temporary injunction, if any, to the sheriff or a law enforcement agency of the county where the respondent resides or can be found, who shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night. *The clerk of the court shall be responsible for furnishing to the sheriff such information on the respondent's physical description and location as is required by the department to comply with the verification procedures set forth in this section.* Notwithstanding any other provision of law to the contrary, the chief judge of each circuit, in consultation with the appropriate sheriff, may authorize a law enforcement agency within the chief judge's jurisdiction to effect this type of service and to receive a portion of the service fee. *No person shall be authorized or permitted to serve or execute an injunction issued under this section unless the person is a law enforcement officer as defined in chapter 943.*

2. When an injunction is issued, if the petitioner requests the assistance of a law enforcement agency, the court may order that an officer from the appropriate law enforcement agency accompany the petitioner and assist in the execution or service of the injunction. A law enforcement officer shall accept a copy of an injunction for protection against repeat violence, certified by the clerk of the court, from the petitioner and immediately serve it upon a respondent who has been located but not yet served.

(c)1. Within 24 hours after the court issues an injunction for protection against repeat violence or changes or vacates an injunction for protection against repeat violence, the clerk of the court must forward a copy of the injunction to the sheriff with jurisdiction over the residence of the petitioner.

2. Within 24 hours after service of process of an injunction for protection against repeat violence upon a respondent, the law enforcement officer must forward the written proof of service of process to the sheriff with jurisdiction over the residence of the petitioner.

3. Within 24 hours after the sheriff receives ~~both~~ a *certified* copy of the injunction for protection against repeat violence ~~and written proof of service of process upon the respondent~~, the sheriff must make information relating to the injunction available to other law enforcement agencies by electronically transmitting such information to the department.

4. Within 24 hours after the sheriff or other law enforcement officer has made service upon the respondent and the sheriff has been so notified, the sheriff must make information relating to the service available to other law enforcement agencies by electronically transmitting such information to the department.

5.~~4.~~ Within 24 hours after an injunction for protection against repeat violence is lifted, terminated, or otherwise rendered no longer effective by ruling of the court, the clerk of the court must notify the sheriff or local law enforcement agency receiving original notification of the injunction as provided in subparagraph 2. That agency shall, within 24 hours after receiving such notification from the clerk of the court, notify the department of such action of the court.

(9)(a) The court shall enforce, through a civil *or criminal* contempt proceeding, a violation of an injunction for protection. The court may enforce the respondent's compliance with the injunction by imposing a monetary assessment. The clerk of the court shall collect and receive such assessments. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the State Treasury for deposit in the Crimes Compensation Trust Fund established in s. 960.21.

Section 11. 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 12. This act shall take effect October 1, 1995.

And the title is amended as follows:

Strike the entire title and insert: A bill to be entitled An act relating to justice system; creating the "Officer Evelyn Gort and All Fallen Officers Career Criminal Act of 1995"; amending s. 775.084, F.S.; providing for enhanced sentencing and mandatory minimum terms of imprisonment for violent career criminals sentenced on a primary offense committed on or after October 1, 1995; providing criteria; providing procedure relating to habitual felony offenders, habitual violent felony offenders, and violent career criminals; providing for reduced incentive gain-time eligibility; requiring a minimum of 85 percent of sentence served; revising provisions relating to right of appeal; requiring certain reports to the Sentencing Commission; amending s. 775.08401, F.S., relating to uniform eligibility criteria, to conform; requiring criteria; requiring quarterly reporting, and maintenance of deviation memoranda for a 10-year period; amending s. 775.0841, F.S.; revising provisions relating to legislative findings and intent; amending ss. 775.0842 and 775.0843, F.S., relating to persons subject to career criminal prosecution efforts and policies to be adopted for career criminal cases, to conform; creating s. 790.235, F.S.; providing for enhanced sentencing and mandatory minimum terms of imprisonment for violent career criminals convicted of possession of firearms; amending s. 741.31, F.S.; providing for civil remedies for victims of persons who violate an injunction for protection; amending s. 741.29, F.S.; providing legislative intent with respect to services for victims of domestic violence; amending s. 741.30, F.S.; requiring the clerk of the court to furnish the sheriff with specified information on respondents; revising guidelines for transmission of specified information by the sheriff; restricting the authority to serve or executive injunctions for protection against domestic violence to specified municipal or county law enforcement officers; amending s. 784.046, F.S., relating to protective injunctions against repeat violence; requiring the clerk of court to furnish the sheriff with specified information on respondents; revising guidelines for transmission of specified information by the sheriff; creating s. 768.35, F.S., providing for cause of action for continuing domestic violence; providing for severability; providing an effective date.

On motion by Senator Silver, the Senate concurred in the House amendment.

CS for SB 168 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—33 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 172 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 172—A bill to be entitled An act relating to sentencing; amending s. 921.0012, F.S.; providing for additional specified crimes to be included in the offense severity ranking chart of the sentencing guidelines; amending s. 921.0014, F.S.; revising the sentence points assessed under the sentencing guidelines worksheet; providing for certain prior felony offenses to be included in computing an offender's sentence; providing that prior capital felonies be included in computing an offender's sentence; creating the "Officer Evelyn Gort Career Criminal Act"; providing for minimum mandatory terms of imprisonment for "career criminals," as defined; providing a limitation on the period during which an offense is considered a prior offense for purposes of sentencing a person as a career criminal; authorizing the award of certain gain-time for a person sentenced as a career criminal; providing that the requirements for sentencing career criminals do not preclude imposing the death penalty in capital cases; providing for the early release of a person sentenced as a career criminal if the Governor certifies that an emergency exists and the Governor and Cabinet determine that the person is suitable for early release; providing for the revocation of early release; amending s. 790.23, F.S.; providing a minimum mandatory term of imprisonment for certain persons convicted of unlawful possession of firearms, electric weapons or devices, or other weapons; providing applicability; providing for the early release of a person convicted of unlawful possession of firearms or other weapons if the Governor certifies that an emergency exists and the Governor and Cabinet determine that the person is suitable for early release; providing for the revocation of early release; providing an effective date.

House Amendment 1 (with Title Amendment)—

Strike everything after the enacting clause and insert:

Section 1. Sections 2 through 36 of this act may be cited as the "Crime Control Act of 1995."

Section 2. Section 1 of chapter 93-406, Laws of Florida, is designated as section 921.0001, Florida Statutes, to read:

921.0001 1994 Revision of the Sentencing Guidelines; legislative intent.—This revision of the sentencing guidelines may be cited as the "Safe Streets Initiative of 1994," and is designed to emphasize incarceration in the state prison system for violent offenders and nonviolent offenders who have repeatedly committed criminal offenses and have demonstrated an inability to comply with less restrictive penalties previously imposed.

Section 3. Paragraph (b) of subsection (4) of section 921.001, Florida Statutes, 1994 Supplement, is amended to read:

921.001 Sentencing Commission and sentencing guidelines generally.—

(4)(b)1. The guidelines enacted effective October 1, 1983, apply to all felonies, except capital felonies, committed on or after October 1, 1983, and before January 1, 1994; and to all felonies, except capital felonies and life felonies, committed before October 1, 1983, when the defendant affirmatively selects to be sentenced pursuant to such provisions.

2. The 1994 guidelines apply to sentencing for all felonies, except capital felonies, committed on or after January 1, 1994. *Any revision to the 1994 guidelines applies to sentencing for all felonies, except capital felonies, committed on or after the effective date of the revision.*

3. Felonies, except capital felonies, with continuing dates of enterprise shall be sentenced under the sentencing guidelines in effect on the beginning date of the criminal activity.

4. When a defendant is before the court for sentencing for more than one felony and the felonies were committed under more than one version or revision of the guidelines, each felony shall be sentenced under the guidelines in effect at the time the particular felony was committed. This subparagraph does not apply to sentencing for any capital felony.

Section 4. Applicable to sentencing for offenses committed on or after October 1, 1995, subsections (3) and (6) of section 921.0011, Florida Statutes, 1994 Supplement, are amended to read:

921.0011 Definitions.—As used in this chapter, the term:

(3) "Legal status ~~violation~~" *means an offender's status if the offender* ~~includes~~:

(a) *Escapes* ~~An escape~~ from incarceration;~~.~~

(b) *Flees* ~~Flight~~ to avoid prosecution;~~.~~

(c) *Fails* ~~Failure~~ to appear for a criminal proceeding;~~.~~

(d) *Violates* ~~Violation of~~ any condition of a supersedeas bond*; or*~~.~~

(e) Is incarcerated;

(f) Is under any form of a pretrial intervention or diversion program; or

(g) Is under any form of court-imposed or post-prison release community supervision.

(6) "*Community sanction* ~~Release program~~" includes:

(a) ~~Parole.~~

~~(b) Control release, including emergency control release.~~

~~(c)~~ Probation.

(b)~~(d)~~ Community control.

(c)~~(e)~~ Pretrial intervention or diversion.

~~(f) Provisional release supervision.~~

~~(g) Conditional release supervision.~~

~~(h) Supervised community release supervision.~~

~~(i) Conditional medical release supervision.~~

Section 5. Applicable to sentencing for offenses committed on or after October 1, 1995, section 921.0012, Florida Statutes, 1994 Supplement, is amended to read:

921.0012 Sentencing guidelines offense levels; offense severity ranking chart.—

(1) A single offense severity ranking chart must be used to compute a sentence score for each felony offender.

(2) The offense severity ranking chart has 10 offense levels, ranked from least severe to most severe, and each felony offense is assigned to a level according to the severity of the offense.

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(a) LEVEL 1
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes, amount greater than *$300* ~~100~~ but less than $20,000.
319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
322.212(1)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver's license.
322.212(4)	3rd	Supply or aid in supplying unauthorized driver's license.
322.212(5)	3rd	False application for driver's license.
370.13(4)(a)	3rd	Molest any stone crab trap, line, or buoy which is property of licenseholder.
370.135(1)	3rd	Molest any blue crab trap, line, or buoy which is property of licenseholder.
372.663(1)	3rd	Poach any alligator or crocodilia.
409.325(2)	3rd	Unauthorized use, possession, forgery, or alteration of food stamps, Medicaid ID, value greater than $200.
409.325(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than $200.
443.071(1)	3rd	False statement or representation to obtain or increase unemployment compensation benefits.
458.327(1)(a)	3rd	Unlicensed practice of medicine.
466.026(1)(a)	3rd	Unlicensed practice of dentistry or dental hygiene.
509.151(1)	3rd	Defraud an innkeeper, food or lodging value greater than $300.
517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
562.27(1)	3rd	Possess still or still apparatus.
713.69	3rd	Tenant removes property upon which lien has accrued, value more than $50.
812.014(3)(c) ~~812.014(2)(d)~~	3rd	Petit theft (3rd conviction); theft of any property not specified in ~~other paragraphs of~~ subsection (2).
812.081(2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
815.04(4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
826.01	3rd	Bigamy.
828.122(3)	3rd	Fighting or baiting animals.
831.04(1)	3rd	Any erasure, alteration etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
832.041(1)	3rd	Stopping payment with intent to defraud $150 or more.
832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks $150 or more or obtaining property in return for worthless check $150 or more.
838.015(3)	3rd	Bribery.
838.016(1)	3rd	Public servant receiving unlawful compensation.
838.15(2)	3rd	Commercial bribe receiving.
838.16	3rd	Commercial bribery.
843.18	3rd	Fleeing by boat to elude a law enforcement officer.
847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd etc., material (2nd conviction).
849.01	3rd	Keeping gambling house.

849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
849.23	3rd	Gambling-related machines; "common offender" as to property rights.
849.25(2)	3rd	Engaging in bookmaking.
860.08	3rd	Interfere with a railroad signal.
860.13(1)(a)	3rd	Operate aircraft while under the influence.
893.13(2)(a)2.	3rd	Purchase of cannabis ~~(or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs)~~.
893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.

(b) LEVEL 2

403.413(5)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07	3rd	Registration of securities and furnishing of prospectus required.
590.28(1)	3rd	Willful, malicious, or intentional burning.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
806.13(1)*(b)*~~(a)~~3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.
810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $300 or more but less than $5,000.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.
817.52(3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
~~817.60(6)(b)~~	~~3rd~~	~~Possess two or more false credit cards.~~
817.61	3rd	Fraudulent use of credit cards over $100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills or promissory note.
831.08	3rd	Possession of 10 or more forged notes.
831.09	3rd	Uttering forged bills; passes as bank bill or promissory note.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.08	3rd	Falsely impersonating an officer.
893.13(2)(a)2.	*3rd*	*Purchase of any s. 893.03(1)(c), (2)(c), (3), or (4) drugs other than cannabis.*
893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.

(c) LEVEL 3

39.061	3rd	Escapes from juvenile facility (secure detention or residential commitment facility).
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	*3rd*	*Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.*
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
697.08	*3rd*	*Equity skimming.*
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
796.05(1)	3rd	Live on earnings of a prostitute.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
~~810.08(2)(c)~~	~~3rd~~	~~Trespass on property armed with firearm or dangerous weapon.~~
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)1.	3rd	Grand theft; $5,000 or more but less than $10,000.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.

831.29	2nd	Possession of instruments for counterfeiting drivers' licenses.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c), (3), or (4) drugs within 200 feet of university, public housing facility, or public park.
893.13(6)(a)	3rd	Possession of *any controlled substance other than felony possession of cannabis* ~~cocaine~~.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.47(1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.

(d) LEVEL 4

231.06(2)	3rd	Battery of school employee.
240.381(2)	3rd	Battery of community college security officer.
316.1935(2)	*3rd*	*Fleeing or attempting to elude law enforcement officer resulting in high-speed pursuit.*
381.0025(4)(b)	3rd	Battery of HRS employee.
401.41(2)(b)	*3rd*	*Battery on emergency medical services personnel.*
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
784.075	*3rd*	*Battery on detention or commitment facility staff.*
784.08(2)(c)	*3rd*	*Battery on a person 65 years of age or older.*
787.03(1)	3rd	Interference with custody; wrongly takes child from appointed guardian.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
~~790.01(2)~~	~~3rd~~	~~Carrying a concealed firearm.~~
790.115(1)	*3rd*	*Exhibiting firearm or weapon within 1,000 feet of a school.*
790.115(2)(b)	*3rd*	*Possessing electric weapon or device, destructive device, or other weapon on school property.*
790.115(2)(c)	*3rd*	*Possessing firearm on school property.*
810.02(4)(a)	*3rd*	*Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.*
810.02(4)(b)	*3rd*	*Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.*
~~810.02(3)~~	~~3rd~~	~~Burglary of an unoccupied conveyance or structure; unarmed; attempted burglary.~~
810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	*3rd*	*Trespass on property, armed with firearm or dangerous weapon.*
812.014(2)(c)*3.*~~1.~~	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.
812.014(2)(c) *4.-10.* ~~2.-8.~~	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), or (2)(a) or (b) drugs).
914.14*(2)*~~(1)(b)~~	3rd	Witnesses accepting bribes ~~to withhold testimony, information, document, or thing~~.
914.22(1)~~(a)~~	3rd	Force, threaten, etc., witness, *victim, or informant* ~~to withhold testimony, documents, or objects~~.
~~914.22(1)(f)~~	~~3rd~~	~~Force, threaten, bribe, etc., witness to testify falsely.~~
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
918.12	*3rd*	*Tampering with jurors.*

(e) LEVEL 5

316.027(1)(a) ~~316.027(2)~~	3rd	Accidents involving ~~death or~~ personal injuries, failure to stop; leaving scene.
316.1935(3)	*3rd*	*Aggravated fleeing or eluding.*
322.34(3)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
415.111(5)	3rd	Exploit an aged person or disabled adult by the improper or illegal use of funds, assets, property, power of attorney, or guardianship.
790.01(2)	*3rd*	*Carrying a concealed firearm.*
790.162	2nd	Threat to throw or discharge destructive device.
790.163	2nd	False report of deadly explosive.

790.164(1)	2nd	False report of deadly explosive or act of arson or violence to state property.
790.165(2)	3rd	Manufacture, sell, possess, or deliver hoax bomb.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms or electronic weapons or devices.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
843.01	3rd	Resist officer with violence to his person; resist arrest with violence.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1)(c), (2)(c), (3), or (4) drugs) within 1,000 feet of a school.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03 (1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 200 feet of university, public housing facility, or public park.
893.13(4)(b)	2nd	Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).
944.35(3)	*3rd*	*Inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.*
951.075	2nd	Prisoner commits assault or battery.

(f) LEVEL 6

316.027(1)(b)	*2nd*	*Accident involving death, failure to stop; leaving scene.*
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
775.087(2)(a)2.		Battery upon law enforcement officer or firefighter while possessing firearm.
775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
784.048(3)	*3rd*	*Aggravated stalking; credible threat.*
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
784.08(2)(b)	*2nd*	*Aggravated assault on a person 65 years of age or older.*
787.02*(2)*~~(1)(a)~~	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.115(2)(d)	*2nd*	*Discharging firearm or weapon on school property.*
790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
794.011(8)(a) ~~794.041(2)(a)~~	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
794.05(1)	2nd	Unlawful carnal intercourse with unmarried person under 18 of previous chaste character.
806.031(2)	*2nd*	*Arson resulting in great bodily harm to firefighter or any other person.*
810.02(3)(c)	*2nd*	*Burglary of occupied structure; unarmed; no assault or battery.*
~~810.02(3)~~	~~2nd~~	~~Burglary of occupied structure; not armed, no assault.~~
812.014(2)(b)	2nd	Property stolen ~~over~~ $20,000 *or more, but* ~~and~~ less than $100,000, grand theft in 2nd degree.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
817.034(4)(a)1.	1st	Communications fraud, value greater than $50,000.
827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
836.05	2nd	Threats; extortion.
836.10	2nd	Written threats to kill or do bodily injury.
843.12	3rd	Aids or assists person to escape.
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
944.40	2nd	Escapes.
944.46	3rd	Harboring, concealing, aiding escaped prisoners.
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.

(g) LEVEL 7

316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
415.111(3)	2nd	Knowingly abuse or neglect aged or disabled adult resulting in bodily harm or disability.
494.0018(2)	*1st*	*Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.*
782.07	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	3rd	Killing of human being by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072(1)	*3rd*	*Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).*
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.

784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	*3rd*	*Aggravated stalking; violation of injunction or court order.*
784.08(2)(a)	*1st*	*Aggravated battery on a person 65 years of age or older.*
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
790.07(4)	*1st*	*Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).*
790.16(1)	*1st*	*Discharge of a machine gun under specified circumstances.*
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04	2nd	Handle, fondle, or assault child under 16 years in lewd, lascivious, or incident manner.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	*2nd*	*Burglary of occupied dwelling; unarmed; no assault or battery.*
810.02(3)(b)	*2nd*	*Burglary of unoccupied dwelling; unarmed; no assault or battery.*
810.02(3)(c)	*2nd*	*Burglary of occupied conveyance; unarmed; no assault or battery.*
~~810.02(3)~~	~~2nd~~	~~Burglary of occupied conveyance or burglary of a dwelling.~~
812.014(2)(a)	1st	Property stolen, valued at $100,000 or more; 1st degree grand theft.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.133(2)(b)	*1st*	*Carjacking, no firearm, deadly weapon, or other weapon.*
827.04(1)	3rd	Deprive child of necessities causing great bodily harm or disfigurement.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a school.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03 (1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 100 lbs., less than 2,000 lbs.
893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.

(h) LEVEL 8

316.193(3)(c)3.	2nd	DUI manslaughter.
777.03(2)(a)	*1st*	*Accessory after the fact, capital felony.*
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
782.071(2)	*2nd*	*Committing vehicular homicide and willfully failing to stop; leaving scene.*
782.072(2)	*2nd*	*Committing vessel homicide and willfully failing to stop; leaving scene.*
790.161(3)	*1st*	*Discharging a destructive device which results in bodily harm or property damage*
794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)	*1st*	*Home-invasion robbery.*
827.03*(2)*~~(1)(a)~~	2nd	Commits aggravated battery on a child.
860.121(2)(c)	*1st*	*Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.*
860.16	*1st*	*Aircraft piracy.*
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135(1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135(1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135(1)(d)2.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135(1)(e)2.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
893.135(1)(f)2.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.

(i) LEVEL 9

782.04(1)	1st	Attempted premeditated murder.

782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
~~784.07(3)~~	~~Life~~	~~Attempted murder of law enforcement officer engaged in duty.~~
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.	*1st,PBL*	*Kidnapping with intent to interfere with performance of any governmental or political function.*
787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
790.161	1st	Attempted capital *destructive device* ~~firearms~~ offense.
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b) ~~794.041(2)(b)~~	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	*1st,PBL*	*Carjacking; firearm or other deadly weapon.*
847.0145(1)	*1st*	*Selling, or otherwise transferring custody or control, of a minor.*
847.0145(2)	*1st*	*Purchasing, or otherwise obtaining custody or control, of a minor.*
859.01	*1st*	*Poisoning food, drink, medicine, or water with intent to kill or injure another person.*
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135(1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135(1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135(1)(d)3.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135(1)(e)3.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135(1)(f)3.	1st	Trafficking in amphetamine, more than 200 grams.

(j) LEVEL 10

782.04(2)	1st,PBL	Unlawful killing of human; act is homicide, unpremeditated.
787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm upon or terrorize victim.
787.01(3)(a)	Life	Kidnapping; child under age 13, perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
794.011(3)	Life	Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.
876.32	*1st*	*Treason against the state.*

Section 6. Applicable to sentencing for offenses committed on or after October 1, 1995, section 921.0014, Florida Statutes, is amended to read:

921.0014 Sentencing guidelines; worksheet computations; scoresheets.—

(1) The sentencing guidelines worksheet is used to compute the subtotal and total sentence points~~. If both of the sentencing enhancements are applicable, only the enhancement with the highest multiplier is used in the total sentence points computation. The worksheet is used~~ as follows:

FLORIDA SENTENCING GUIDELINES WORKSHEET
OFFENSE SCORE

Primary Offense

Level	Sentence Points		Total
10	116	=	___
9	*92* ~~91~~	=	
8	74	=	
7	*56* ~~42~~	=	
6	36	=	
5	28	=	
4	22	=	
3	16	=	
2	10	=	
1	4	=	
		Total	

Additional Offenses

Level	Sentence Points		Counts		Total
10	*58* ~~12.0~~	x	_____	=	
9	*46* ~~10.8~~	x	_____	=	
8	*37* ~~9.6~~	x	_____	=	
7	*28* ~~8.4~~	x	_____	=	
6	*18* ~~7.2~~	x	_____	=	
5	5.4	x	_____	=	
4	3.6	x	_____	=	
3	2.4	x	_____	=	
2	1.2	x	_____	=	___
1	0.7	x	_____	=	
M	0.2	x	_____	=	
			Total		

Victim Injury

Level	Sentence Points		Number		Total
2nd degree murder-death	*240* ~~120~~	x	_____	=	
Death	*120* ~~60~~	x	_____	=	
Severe	40	x	_____	=	
Sexual penetration	*80* ~~40~~	x	_____	=	
Moderate	18	x	_____	=	___
Sexual contact	*40* ~~18~~	x	_____	=	
Slight	4	x	_____	=	
			Total		

Primary Offense + Additional Offenses + Victim Injury =

TOTAL OFFENSE SCORE

PRIOR RECORD SCORE

Prior Record

Level	Sentence Points		Number		Total
10	*29* ~~8.0~~	x	_____	=	

9	*23* ~~7.2~~	x		=
8	*19* ~~6.4~~	x		=
7	*14* ~~5.6~~	x	_____	=
6	*9* ~~4.8~~	x	_____	=
5	3.6	x	_____	=
4	2.4	x	_____	=
3	1.6	x	_____	=
2	0.8	x		=
1	0.5	x		=
M	0.2	x		=
			Total	

~~Legal Status Violation~~

~~Sentence Points Total~~
~~4~~

~~Release Program Violation~~

~~Sentence Points Total~~
~~6 for each violation, up to a total of 18~~

~~Prior Record Score + Legal Status Violation + Release Program Violation = TOTAL PRIOR RECORD SCORE~~

TOTAL OFFENSE SCORE
TOTAL PRIOR RECORD SCORE
LEGAL STATUS
COMMUNITY SANCTION VIOLATION
PRIOR SERIOUS FELONY
PRIOR CAPITAL FELONY
FIREARM OR *SEMIAUTOMATIC WEAPON*
~~DESTRUCTIVE DEVISE SEMIAUTOMATIC WEAPON~~
SUBTOTAL

VIOLENT CAREER CRIMINAL (no)(yes)
VIOLENT HABITUAL OFFENDER (no)(yes)
HABITUAL OFFENDER (no)(yes)
DRUG TRAFFICKER (no)(yes) (× multiplier)
LAW ENF. PROTECT. (no)(yes) (× multiplier)
MOTOR VEHICLE THEFT (no)(yes) (× multiplier) _____

TOTAL *SENTENCE POINTS*

WORKSHEET KEY:

~~Recommended Sentences:~~

~~If the total sentence points are less than or equal to 40, the recommended sentence shall not be a state prison sentence; however, the court, in its discretion, may increase the total sentence points by up to, and including, 15 percent.~~

~~If the total sentence points are greater than 40 and less than or equal to 52, the decision to incarcerate in a state prison is left to the discretion of the court.~~

~~If the total sentence points are greater than 52, the sentence must be a state prison sentence calculated by total sentence points. A state prison sentence is calculated as follows:~~

~~State prison months = total sentence points minus 28.~~

~~The recommended sentence length in state prison months may be increased by up to, and including, 25 percent or decreased by up to, and including, 25 percent, at the discretion of the court. The recommended sentence length may not be increased if the total sentence points have been increased for that offense by up to, and including, 15 percent. If a recommended sentence under the guidelines exceeds the maximum sentence otherwise authorized by s. 775.082, the sentence recommended under the guidelines must be imposed absent a departure.~~

Legal status *points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender's legal status* ~~violation includes escape from incarceration, flight to avoid prosecution, failure to appear for a criminal proceeding, and violation of any condition of a supersedeas bond~~.

Community sanction ~~Release program~~ violation *points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation, and each successive community sanction violation; however, if the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for such violation, and for each successive community sanction violation involving a new felony conviction* ~~includes violation of any condition of parole, control release, probation, community control, pretrial intervention or diversion, provisional release supervision, conditional release supervision, supervised community release supervision, or conditional medical release supervision~~.

Prior serious felony points: If the offender has a primary offense ranked in level 8, 9, or 10, and one or more prior serious felonies, an additional 30 points shall be assessed. For purposes of this section, a prior serious felony is an offense for which the offender has been found guilty; which was committed within 3 years before the date the primary offense and any additional offense was committed; and which is ranked in level 8, 9, or 10 under s. 921.0012 or s. 921.0013, or would be ranked in level 8, 9, or 10 under s. 921.0012 or s. 921.0013, if the offense were committed in this state.

Prior capital felony points: If the offender has one or more prior capital felonies, points shall be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the primary offense and any additional offense. A prior capital felony is an offense for which the offender has been found guilty; or a felony in another jurisdiction which is a capital felony in that jurisdiction, or would be a capital felony if the offense were committed in this state.

Possession of a firearm, *semiautomatic firearm, or machine gun* ~~or destructive device~~: If the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(2) while having in his possession*:* a firearm as defined in s. 790.001(6), an additional 18 sentence points are *assessed; or* ~~added to the offender's subtotal sentence points. Possession of a semiautomatic weapon:~~ if the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087*(3)*~~(2)~~ while having in his possession a semiautomatic firearm as defined in s. 775.087*(3)*~~(2)~~ or a machine gun as defined in s. 790.001(9), an additional 25 sentence points are *assessed* ~~added to the offender's subtotal sentence points~~.

Sentencing multipliers ~~If both of the following sentencing enhancements are applicable, only the enhancement with the highest multiplier is used~~:

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, ~~then~~ the subtotal sentence points are multiplied, at the discretion of the court, for a level 7 or level 8 offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a level 7 or level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4).

Law enforcement protection: If the primary offense is a violation of the Law Enforcement Protection Act under s. 775.0823(2), *the subtotal sentence points are multiplied by 2.5. If the primary offense is a violation of s. 775.0823(3), (4), (5), (6), (7), or (8)* ~~(3), (4), or (5)~~, ~~then~~ the subtotal sentence points are multiplied by 2.0. If the primary offense is a violation of s. *784.07(3)* ~~775.087(2)(a)2.~~ or s. 775.0875(1), or of the Law Enforcement Protection Act under s. 775.0823*(9)*~~(6)~~ or *(10)*~~(7)~~, then the subtotal sentence points are multiplied by 1.5.

Grand theft of a motor vehicle: If the primary offense is grand theft of the third degree involving a motor vehicle and in the offender's prior record, there are three or more grand thefts of the third degree involving a motor vehicle, the subtotal sentence points are multiplied by 1.5.

(2) Recommended sentences:

If the total sentence points are less than or equal to 40, the recommended sentence shall not be a state prison sentence; however, the court, in its discretion, may increase the total sentence points by up to, and including, 15 percent.

If the total sentence points are greater than 40 and less than or equal to 52, the decision to incarcerate in a state prison is left to the discretion of the court.

If the total sentence points are greater than 52, the sentence must be a state prison sentence calculated by total sentence points. A state prison sentence is calculated as follows:

State prison months = total sentence points minus 28.

The recommended sentence length in state prison months may be increased by up to, and including, 25 percent or decreased by up to, and including, 25 percent, at the discretion of the court. The recommended sentence length may not be increased if the total sentence points have been increased for that offense by up to, and including, 15 percent. If a recommended sentence under the guidelines exceeds the maximum sentence otherwise authorized by s. 775.082, the sentence recommended under the guidelines must be imposed absent a departure

If the total sentence points are equal to or greater than 363, the court may sentence the offender to life imprisonment. An offender sentenced to life imprisonment under this section is not eligible for any form of discretionary early release, except pardon, executive clemency, or conditional medical release under s. 947.149.

(3)~~(2)~~ A single guidelines scoresheet shall be prepared for each defendant, *except that if the defendant is before the court for sentencing for more than one felony and the felonies were committed under more than one version or revision of the guidelines, separate scoresheets must be prepared pursuant to s. 921.001(4)(b)*. The scoresheet *or scoresheets* must cover all the defendant's offenses pending before the court for sentencing. Either the office of the state attorney or the *Department of Corrections* ~~Probation Services Office~~, or both where appropriate, shall prepare the scoresheet *or schoreheets, which* ~~and the scoresheet~~ must be presented to the defense counsel for review for accuracy in all cases unless the judge directs otherwise. The defendant's scoresheet *or scoresheets* must be approved *and signed* by the sentencing judge.

(4)~~(3)~~ The Department of Corrections shall develop and submit the revised sentencing guidelines scoresheet to the Sentencing Commission by *June 15 of each year, as necessary* ~~September 1, 1993~~. Following the Supreme Court's approval of the revised procedures, the Department of Corrections shall produce and provide sufficient copies of the revised scoresheets to the clerks of the circuit courts by no later than *September 30 of each year, as necessary* ~~December 31, 1993~~.

(5)~~(4) Beginning January 1, 1994,~~ The clerks of the circuit courts for the individual counties shall distribute sufficient copies of the sentencing guidelines scoresheets to those persons charged with the responsibility for preparing sentencing guidelines scoresheets, either the office of the state attorney or the *Department of Corrections* ~~Probation Services Office~~, or both where appropriate.

(6)~~(5)~~ The clerk of the circuit court shall transmit a complete, accurate, and legible copy of the guidelines scoresheet utilized in each guidelines sentencing proceeding to the Department of Corrections. Scoresheets must be transmitted no less frequently than monthly, by the first of each month, and may be sent collectively.

(7)~~(6)~~ A copy of the individual offender's sentencing guidelines scoresheet and any attachments thereto prepared pursuant to Rule 3.701, Florida Rules of Criminal Procedure, must be attached to the copy of the uniform judgment and sentence form provided to the Department of Corrections.

Section 7. Paragraph (c) of subsection (1) of section 921.0016, Florida Statutes, is amended to read:

921.0016 Recommended sentences; departure sentences; aggravating and mitigating circumstances.—

(1)(c) A state prison sentence which varies upward or downward from the recommended guidelines prison sentence by more than 25 percent is a departure sentence and must be accompanied by a written statement delineating the reasons for the departure, filed within 7 ~~15~~ days after the date of sentencing. A written transcription of orally stated reasons for departure from the guidelines at sentencing is permissible if it is filed by the court within 7 ~~15~~ days after the date of sentencing.

(3) Aggravating circumstances under which a departure from the sentencing guidelines is reasonably justified include, but are not limited to:

(e) The offense before the court for disposition was committed within 6 months after the defendant was discharged from a release program, as defined in s. 921.0011(6), or released from state prison, whichever is later.

Section 8. Section 810.02, Florida Statutes, is amended to read:

810.02 Burglary.—

(1) "Burglary" means entering or remaining in *a dwelling*, a structure, or a conveyance with the intent to commit an offense therein, unless the premises are at the time open to the public or the defendant is licensed or invited to enter or remain.

(2) Burglary is a felony of the first degree, punishable by imprisonment for a term of years not exceeding life imprisonment or as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of committing the offense, the offender:

(a) Makes an assault or battery upon any person*; or*~~.~~

(b) Is *or becomes* armed~~, or arms himself~~ within such *dwelling*, structure, or conveyance, with explosives or a dangerous weapon.

(3) *Burglary is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of committing the offense, the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive, and the offender enters or remains in a:*

(a) Dwelling, and there is another person in the dwelling at the time the offender enters or remains;

(b) Dwelling, and there is not another person in the dwelling at the time the offender enters or remains;

(c) Structure, and there is another person in the structure at the time the offender enters or remains; or

(d) Conveyance, and there is another person in the conveyance at the time the offender enters or remains.

(4) Burglary is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of committing the offense, the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive, and the offender enters or remains in a:

(a) Structure, and there is not another person in the structure at the time the offender enters or remains; or

(b) Conveyance, and there is not another person in the conveyance at the time the offender enters or remains. ~~If the offender does not make an assault or battery or is not armed, or does not arm himself, with a dangerous weapon or explosive as aforesaid during the course of committing the offense and the structure or conveyance entered is a dwelling or there is a human being in the structure or conveyance at the time the offender entered or remained in the structure or conveyance, the burglary is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Otherwise, burglary is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

Section 9. Section 812.014, Florida Statutes, is amended to read:

812.014 Theft.—

(1) A person commits theft if he knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to, either temporarily or permanently:

(a) Deprive the other person of a right to the property or a benefit therefrom.

(b) Appropriate the property to his own use or to the use of any person not entitled thereto.

(2)(a) If the property stolen is valued at $100,000 or more, the offender commits grand theft in the first degree, punishable as a felony of the first degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the property stolen is valued at $20,000 or more, but less than $100,000, the offender commits grand theft in the second degree, punishable as a felony of the second degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is:

1. Valued at $300 or more, but less than *$5,000* ~~$20,000~~.

2. *Valued at $5,000 or more, but less than $10,000.*

3. *Valued at $10,000 or more, but less than $20,000.*

4.~~2.~~ A will, codicil, or other testamentary instrument.

5.~~3.~~ A firearm.

6.~~4.~~ A motor vehicle.

7.~~5.~~ Any commercially farmed animal, including any animal of the equine, bovine, or swine class, or other grazing animal, and including aquaculture species raised at a permitted aquaculture facility.

8.~~6.~~ Any fire extinguisher.

9.~~7.~~ Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit.

10.~~8.~~ Taken from a designated construction site identified by the posting of a sign as provided for in s. 810.09(2)(d).

(3)(a)~~(d)~~ Theft of any property not specified in *subsection (2)* ~~paragraph (a), paragraph (b), or paragraph (c)~~ is petit theft and a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who commits petit theft and who has previously been convicted of any theft commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A person who commits petit theft and who has previously been convicted two or more times of any theft commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(d)~~(e)~~1 Every judgment of guilty or not guilty of a petit theft shall be in writing, signed by the judge, and recorded by the clerk of the circuit court. The judge shall cause to be affixed to every such written judgment of guilty of petit theft, in open court and in the presence of such judge, the fingerprints of the defendant against whom such judgment is rendered. Such fingerprints shall be affixed beneath the judge's signature to such judgment. Beneath such fingerprints shall be appended a certificate to the following effect:

"I hereby certify that the above and foregoing fingerprints on this judgment are the fingerprints of the defendant, ... , and that they were placed thereon by said defendant in my presence, in open court, this the . . . . day of . . . . , 19. . . . ."

Such certificate shall be signed by the judge, whose signature thereto shall be followed by the word "Judge."

2. Any such written judgment of guilty of a petit theft, or a certified copy thereof, is admissible in evidence in the courts of this state as prima facie evidence that the fingerprints appearing thereon and certified by the judge are the fingerprints of the defendant against whom such judgment of guilty of a petit theft was rendered.

(4)~~(3)~~ Failure to comply with the terms of a lease when the lease is for a term of 1 year or longer shall not constitute a violation of this section unless demand for the return of the property leased has been made in writing and the lessee has failed to return the property within 7 days of his receipt of the demand for return of the property. A demand mailed by certified or registered mail, evidenced by return receipt, to the last known address of the lessee shall be deemed sufficient and equivalent to the demand having been received by the lessee, whether such demand shall be returned undelivered or not.

Section 10. Subsection (2) of section 538.23, Florida Statutes, is amended to read:

538.23 Violations and penalties.—

(2) A secondary metals recycler is presumed to know upon receipt of stolen regulated metals property in a purchase transaction that the regulated metals property has been stolen from another if the secondary metals recycler knowingly and intentionally fails to maintain the information required in s. 538.19 and shall, upon conviction of a violation of s. 812.015, be punished as provided in s. 812.014(2) *or (3)*.

Section 11. Subsection (2) of section 812.015, Florida Statutes, is amended to read:

812.015 Retail and farm theft; mandatory fine; alternative punishment; detention and arrest; exemption from liability for false arrest; resisting arrest; penalties.—

(2) Upon a second or subsequent *conviction for petit* theft from a merchant or farmer, the offender shall be punished as provided in s. 812.014*(3)*~~(2)(d)~~, except that the court shall impose a fine of not less than $50 or more than $1,000. However, in lieu of such fine, the court may require the offender to perform public services designated by the court. In no event shall any such offender be required to perform fewer than the number of hours of public service necessary to satisfy the fine assessed by the court, as provided by this subsection, at the minimum wage prevailing in the state at the time of sentencing.

Section 12. Paragraph (b) of subsection (3) of section 943.051, Florida Statutes, 1994 Supplement, is amended to read:

943.051 Criminal justice information; collection and storage; fingerprinting.—

(3)

(b) A minor who is charged with or found to have committed the following misdemeanors shall be fingerprinted and the fingerprints shall be submitted to the department:

1. Assault, as defined in s. 784.011.

2. Battery, as defined in s. 784.03.

3. Carrying a concealed weapon, as defined in s. 790.01(1).

4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).

5. Child abuse, as defined in s. 827.04(2).

6. Negligent treatment of children, as defined in s. 827.05.

7. Assault or battery on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a) and (b).

8. Open carrying of a weapon, as defined in s. 790.053.

9. Exposure of sexual organs, as defined in s. 800.03.

10. Unlawful possession of a firearm, as defined in s. 790.22(5).

11. Petit theft, as defined in s. *812.014(3)* ~~812.04(2)(d)~~.

12. Cruelty to animals, as defined in s. 828.12(1).

13. Arson, as defined in s. 806.031(1).

Section 13. Applicable to sentencing for offenses committed on or after October 1, 1995, section 777.03, Florida Statutes, is amended to read:

777.03 Accessory after the fact.—

(1) Any person ~~Whoever,~~ not standing in the relation of husband or wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity to the offender, *who* maintains or assists the principal or accessory before the fact, or gives the offender any other aid, knowing that *the offender* ~~he~~ had committed a felony or been accessory thereto before the fact, with intent that *the offender avoids* ~~he shall avoid~~ or *escapes* ~~escape~~ detection, arrest, trial or punishment, *is* ~~shall be deemed~~ an accessory after the fact~~, and shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084~~.

(2)(a) If the felony offense committed is a capital felony, the offense of accessory after the fact is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the felony offense committed is a life felony or a felony of the first degree, the offense of accessory after the fact is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775 084

(c) If the felony offense committed is a felony of the second degree or a felony of the third degree ranked in level 3, 4, 5, 6, 7, 8, 9, or 10 under s. 921.0012 or s. 921.0013, the offense of accessory after the fact is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If the felony offense committed is a felony of the third degree ranked in level 1 or level 2 under s. 921.0012 or s. 921.0013, the offense of accessory after the fact is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775 083, or s. 775.084.

(3) Except as otherwise provided in s. 921.0012, for purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, the offense of accessory after the fact is ranked two levels below the ranking under s. 921.0012 or s. 921.0013 of the felony offense committed.

Section 14. Applicable to sentencing for offenses committed on or after October 1, 1995, subsection (4) of section 777.04, Florida Statutes, is amended to read:

777.04 Attempts, solicitation, and conspiracy.—

(4)(a) *Except as otherwise provided in ss. 828.125(2), 849.25(4), 893.135(5), and 921.0012, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is ranked for purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944 one level below the ranking under s. 921.0012 or s. 921.0013 of the offense attempted, solicited, or conspired to. If the criminal attempt, criminal solicitation, or criminal conspiracy is of an offense ranked in level 1 or level 2 under s. 921.0012 or s. 921.0013, such offense is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.* ~~Except as otherwise provided in s. 921.0012, the offense of criminal attempt or criminal solicitation is ranked on the offense severity ranking chart in s. 921.0012 two levels below the offense attempted or solicited is, was, or would have been ranked on the offense severity ranking chart.~~

(b) ~~Except as otherwise provided in s. 921.0012, the offense of criminal conspiracy is ranked on the offense severity ranking chart in s. 921.0012 one level below the offense conspired to is, was, or would have been ranked on the offense severity ranking chart.~~

~~(c)~~ If the offense attempted, solicited, or conspired to is a capital felony, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c)~~(d)~~ *Except as otherwise provided in s. 893.135(5),* if the offense attempted, solicited, or conspired to is a life felony or a felony of the first degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d)~~(e)~~ *Except as otherwise provided in s. 828.125(2) or s. 849.25(4),* if the offense attempted, solicited, or conspired to is a:

1. Felony of the second degree*;* ~~or a~~

2. Burglary that is a felony of the third degree*; or*

3. Felony of the third degree ranked in level 3, 4, 5, 6, 7, 8, 9, or 10 under s. 921.0012 or s 921 0013,

the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e)~~(f)~~ *Except as otherwise provided in s. 849.25(4) or paragraph (d),* if the offense attempted, solicited, or conspired to is a felony of the third degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(f)~~(g)~~ If the offense attempted, solicited, or conspired to is a misdemeanor of the first or second degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 15. Applicable to sentencing for offenses committed on or after October 1, 1995, subsection (1) of section 893.135, Florida Statutes, is amended to read:

893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(a) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of 100 pounds of cannabis commits a felony of the first degree, which felony shall be known as "trafficking in cannabis." If the quantity of cannabis involved:

1. Is in excess of 100 pounds, but less than 2,000 pounds, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of $25,000.

2. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of $50,000.

3. Is 10,000 pounds or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $200,000.

(b)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine, as described in s. 893.03(2)(a)4., or of any mixture containing cocaine, but less than 150 kilograms of cocaine or any such mixture, commits a felony of the first degree, which felony shall be known as "trafficking in cocaine." If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of $50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of $100,000.

c. Is 400 grams or more, but less than 150 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 150 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., commits the first degree felony of trafficking in cocaine~~, punishable by a term of life imprisonment without the possibility of parole~~. *A person who has been convicted of the first degree felony of trafficking in cocaine under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except conditional medical release under s. 947.149.* However, if, in addition to the commission of any act specified in this paragraph, that person:

a. Intentionally kills an individual or counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing results; or

b. Is determined, with respect to the commission of that act, to have had a highly culpable mental state and, as a result of that act, the defendant's conduct led to a natural, though not inevitable, lethal result, which state may be taken into account in any capital sentencing judgment,

such person commits the capital felony of trafficking in cocaine, punishable as provided in ss. 775.082 and 921.142. Such person shall also be sentenced to pay the maximum fine provided under subparagraph 1. For the purposes of this paragraph, a "highly culpable mental state" is represented by a reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death.

(c)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, or any salt, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a) or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a felony of the first degree, which felony shall be known as "trafficking in illegal drugs." If the quantity involved:

a. Is 4 grams or more, but less than 14 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of $50,000.

b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of $100,000.

c. Is 28 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of $500,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 kilograms or more of any morphine, opium, or any salt, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 30 kilograms or more of any mixture containing any such substance, commits the first degree felony of trafficking in illegal drugs~~, punishable by a term of life imprisonment without the possibility of parole~~. *A person who has been convicted of the first degree felony of trafficking in illegal drugs under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except conditional medical release under s. 947.149.* However, if, in addition to the commission of any act specified in this paragraph, that person:

a. Intentionally kills an individual or counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing results; or

b. Is determined, with respect to the commission of that act, to have had a highly culpable mental state and, as a result of that act, the defendant's conduct led to a natural, though not inevitable, lethal result, which state may be taken into account in any capital sentencing judgment.

such person commits the capital felony of trafficking in illegal drugs, punishable as provided in ss. 775.082 and 921.142. Such person shall also be sentenced to pay the maximum fine provided under subparagraph 1. For the purposes of this paragraph, a "highly culpable mental state" is represented by a reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death.

(d) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), commits a felony of the first degree, which felony shall be known as "trafficking in phencyclidine." If the quantity involved:

1. Is 28 grams or more, but less than 200 grams, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 3 calendar years~~ and ~~to~~ pay a fine of $50,000.

2. Is 200 grams or more, but less than 400 grams, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 5 calendar years~~ and ~~to~~ pay a fine of $100,000.

3. Is 400 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and ~~to~~ pay a fine of $250,000.

(e) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 200 grams or more of methaqualone or of any mixture containing methaqualone, as described in s. 893.03(1)(d), commits a felony of the first degree, which felony shall be known as "trafficking in methaqualone." If the quantity involved:

1. Is 200 grams or more, but less than 5 kilograms, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of $50,000.

2. Is 5 kilograms or more, but less than 25 kilograms, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of $100,000.

3. Is 25 kilograms or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

(f) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 14 grams or more of amphetamine, as described in s. 893.03(2)(c)2., or methamphetamine, as described in s. 893.03(2)(c)4., or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, or ephedrine in conjunction with other chemicals and equipment utilized in the manufacture of amphetamine or methamphetamine, commits a felony of the first degree, which felony shall be known as "trafficking in amphetamine." If the quantity involved:

1. Is 14 grams or more, but less than 28 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of $50,000.

2. Is 28 grams or more, but less than 200 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of $100,000.

3. Is 200 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

Section 16. Applicable to sentencing for offenses committed on or after July 1, 1995, subsection (3) of section 775.082, Florida Statutes, 1994 Supplement, is amended, and subsection (8) is added to said section, to read:

775.082 Penalties.—

(3) A person who has been convicted of any other designated felony may be punished as follows:

(a)*1.* For a life felony committed prior to October 1, 1983, by a term of imprisonment for life or for a term of years not less than 30. ~~and,~~

2. For a life felony committed on or after October 1, 1983, by a term of imprisonment for life or by a term of imprisonment not exceeding 40 years.~~;~~

3. For a life felony committed on or after July 1, 1995, by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment.

(b) For a felony of the first degree, by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment.~~;~~

(c) For a felony of the second degree, by a term of imprisonment not exceeding 15 years.~~;~~

(d) For a felony of the third degree, by a term of imprisonment not exceeding 5 years.

(8) The purpose of this section is to provide uniform punishment for those crimes made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

Section 17. Applicable to sentencing for offenses committed on or after October 1, 1995, section 775.0823, Florida Statutes, is amended to read:

775.0823 Violent offenses committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges.—Any provision of law to the contrary notwithstanding, the Legislature does hereby provide for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; or against any justice or judge of a court described in Article V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, or the justice's or judge's duty as a judicial officer, as follows:

(1) For murder in the first degree as described in s. 782.04(1), if the death sentence is not imposed, a sentence of imprisonment for life without eligibility for release.

(2) For attempted murder in the first degree as described in s. 782.04(1), a sentence pursuant to the sentencing guidelines.

(3)~~(2)~~ For murder in the second degree as described in s. 782.04(2) and (3), a sentence pursuant to the sentencing guidelines.

(4) For attempted murder in the second degree as described in s. 782.04(2) and (3), a sentence pursuant to the sentencing guidelines.

(5)~~(3)~~ For murder in the third degree as described in s. 782.04(4), a sentence pursuant to the sentencing guidelines.

(6) For attempted murder in the third degree as described in s. 782.04(4), a sentence pursuant to the sentencing guidelines.

(7)~~(4)~~ For manslaughter as described in s. 782.07 during the commission of a crime, a sentence pursuant to the sentencing guidelines.

(8)~~(5)~~ For kidnapping as described in s. 787.01, a sentence pursuant to the sentencing guidelines.

(9)~~(6)~~ For aggravated battery as described in s. 784.045, a sentence pursuant to the sentencing guidelines.

(10)~~(7)~~ For aggravated assault as described in s. 784.021, a sentence pursuant to the sentencing guidelines.

Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

Section 18. Effective October 1, 1995, section 775.0825, Florida Statutes, is hereby repealed.

Section 19. Applicable to sentencing for offenses committed on or after October 1, 1995, section 775.087, Florida Statutes, is amended to read:

775.087 Possession or use of weapon; aggravated battery; felony reclassification; minimum sentence.—

(1) Unless otherwise provided by law, whenever a person is charged with a felony, except a felony in which the use of a weapon or firearm is an essential element, and during the commission of such felony the defendant carries, displays, uses, threatens, or attempts to use any weapon or firearm, or during the commission of such felony the defendant commits an aggravated battery, the felony for which the person is charged shall be reclassified as follows:

(a) In the case of a felony of the first degree, to a life felony.

(b) In the case of a felony of the second degree, to a felony of the first degree.

(c) In the case of a felony of the third degree, to a felony of the second degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense which is reclassified under this section is ranked one level above the ranking, under s. 921.0012 or s. 921.0013, of the felony offense committed.

(2) Any person who is convicted of a felony or an attempt to commit a felony and the conviction was for:

(a) Murder;

(b) Sexual battery;

(c) Robbery;

(d) Burglary;

(e) Arson;

(f) Aggravated assault;

(g) Aggravated battery;

(h) Kidnapping;

(i) Escape;

(j) Aircraft piracy;

(k) Aggravated child abuse;

(l) Unlawful throwing, placing, or discharging of a destructive device or bomb;

(m) Carjacking;

(n) Home-invasion robbery; or

(o) Aggravated stalking

and during the commission of the offense, such person possessed a "firearm," as defined in s. 791.001(6), or "destructive device," as defined in s. 790.001(4), shall be sentenced to a minimum term of imprisonment of 3 years. Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld. An offender sentenced under this subsection is not eligible for control release under s. 947.146.

(3)(a) Any person who is convicted of a felony or an attempt to commit a felony and the conviction was for:

1. Murder;

2. Sexual battery;

3. Robbery;

4. Burglary;

5. Arson;

6. Aggravated assault;

7. Aggravated battery;

8. Kidnapping;

9. Escape;

10. Sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance;

11. Aircraft piracy;

12. Aggravated child abuse;

13. Unlawful throwing, placing, or discharging of a destructive device or bomb;

14. Carjacking;

15. Home-invasion robbery; or

16. Aggravated stalking

and during the commission of the offense, such person possessed a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 791.001(9), shall be sentenced to a minimum term of imprisonment of 8 years. Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld. An offender sentenced under this subsection is not eligible for control release under s. 947.146.

~~(a) Any person who is convicted of:~~

~~1. Any murder, sexual battery, robbery, burglary, arson, aggravated assault, aggravated battery, kidnapping, escape, breaking and entering with intent to commit a felony, or aircraft piracy, or any attempt to commit the aforementioned crimes; or~~

~~2. Any battery upon a law enforcement officer or firefighter while the officer or firefighter is engaged in the lawful performance of his duties~~

~~and who had in his possession a "firearm," as defined in s. 790.001(6), or "destructive device," as defined in s. 790.001(4), shall be sentenced to a minimum term of imprisonment of 3 calendar years. Any person who is convicted of any of the crimes listed in this paragraph or the sale, manufacture, delivery, purchase, or possession with intent to distribute any controlled substance and who had in his possession a semiautomatic firearm and its high capacity detachable box magazine or a machine gun as defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 8 calendar years. Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall the defendant be eligible for parole or statutory gain time under s. 944.275, prior to serving such minimum sentence.~~

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

1. "High-capacity detachable box magazine" means any detachable box magazine, for use in a semiautomatic firearm, which is capable of being loaded with more than 20 centerfire cartridges.

2. "Semiautomatic firearm" means a firearm which is capable of firing a series of rounds by separate successive depressions of the trigger and which uses the energy of discharge to perform a portion of the operating cycle.

Section 20. Applicable to sentencing for offenses committed on or after October 1, 1995, section 784.07, Florida Statutes, 1994 Supplement, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, or other specified officers; reclassification of offenses; *minimum sentences.*—

(1)(a) As used in this section, the term "law enforcement officer" includes a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10, and any county probation officer; employee or agent of the Department of Corrections who supervises or provides services to inmates; officer of the Parole Commission; and law enforcement personnel of the Game and Fresh Water Fish Commission, the Department of Environmental Protection, or the Department of Law Enforcement.

(b) "Firefighter" as used in this section shall mean any person employed by any public employer of this state whose duty it is to extinguish fires; to protect life or property; or to enforce municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires.

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer, a firefighter, a traffic accident investigation officer as described in s. 316.640, a traffic infraction enforcement officer as described in s. 318.141, or a parking enforcement specialist as defined in s. 316.640, while the officer, firefighter, intake officer, traffic accident investigation officer, traffic infraction enforcement officer, or parking enforcement specialist is engaged in the lawful performance of his duties, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

(b) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(c) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.

(d) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

(3) *Any person who is convicted of a battery under paragraph (b) of subsection (2) and, during the commission of the offense, such person possessed:*

(a) A "firearm," as defined in s. 791.001(6), or "destructive device," as defined in s. 790.001(4), shall be sentenced to a minimum term of imprisonment of 3 years.

(b) A semiautomatic firearm and its high-capacity detachable box magazine, as defined in s. 775.087(3), or a machine gun as defined in s. 791.001(9), shall be sentenced to a minimum term of imprisonment of 8 years.

Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld. An offender sentenced under this subsection is not eligible for control release under s. 947.146. ~~Notwithstanding the provisions of any other section, any person who is convicted of attempted murder of a law enforcement officer engaged in the lawful performance of his duty or who is convicted of attempted murder of a law enforcement officer when the motivation for such attempt was related, all or in part, to the lawful duties of the officer, shall be guilty of a life felony, punishable as provided in s. 775.0825.~~

Section 21. Applicable to sentencing for offenses committed on or after October 1, 1995, section 775.0845, Florida Statutes, is amended to read:

775.0845 Wearing mask while committing offense; enhanced penalties.—The penalty for any criminal offense, other than a violation of ss. 876.12-876.15, shall be increased as provided in this section if, while committing the offense, the offender was wearing a hood, mask, or other device that concealed his identity.

(1)*(a)* A misdemeanor of the second degree shall be punishable as if it were a misdemeanor of the first degree.

(b)~~(2)~~ A misdemeanor of the first degree shall be punishable as if it were a felony of the third degree. *For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 2 of the offense severity ranking chart.*

(2)(a)~~(3)~~ A felony of the third degree shall be punishable as if it were a felony of the second degree.

(b)~~(4)~~ A felony of the second degree shall be punishable as if it were a felony of the first degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense which is reclassified under this subsection is ranked one level above the ranking under s. 921.0012 or s. 921.0013 of the offense committed.

Section 22. Applicable to sentencing for offenses committed on or after October 1, 1995, section 775.0875, Florida Statutes, is amended to read:

775.0875 Unlawful taking, possession, or use of law enforcement officer's firearm; crime reclassification; penalties.—

(1) A person who, without authorization, takes a firearm from a law enforcement officer lawfully engaged in law enforcement duties commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) *If* a person ~~who~~ violates subsection (1) and commits any other crime involving the firearm taken from the law enforcement officer, *such* ~~commits a~~ crime ~~which~~ shall be reclassified as follows:

(a) ~~In the case of a life felony, to a capital felony.~~

1.~~(b)~~ In the case of a felony of the first degree, to a life felony.

2.~~(c)~~ In the case of a felony of the second degree, to a felony of the first degree.

3.~~(d)~~ In the case of a felony of the third degree, to a felony of the second degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense which is reclassified under this paragraph is ranked one level above the ranking under s. 92.0012 or s. 921.0013 of the felony offense committed.

(b)~~(e)~~ In the case of a misdemeanor, to a felony of the third degree. *For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 2 of the offense severity ranking chart.*

(3) A person who possesses a firearm which he knows was unlawfully taken from a law enforcement officer commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 23. Applicable to sentencing for offenses committed on or after October 1, 1995, section 874.04, Florida Statutes, 1994 Supplement, is amended to read:

874.04 Pattern of criminal street gang activity; reclassified penalties.—The penalty for any felony or violent misdemeanor, or any delinquent act or violation of law which would be a felony or violent misdemeanor if committed by an adult, shall be reclassified if the offender was a member of a criminal street gang at the time of the commission of such offense that meets the criteria of a pattern of criminal street gang activity:

(1)*(a)* A misdemeanor of the second degree shall be punishable as if it were a misdemeanor of the first degree.

(b)~~(2)~~ A misdemeanor of the first degree shall be punishable as if it were a felony of the third degree. *For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 2 of the offense severity ranking chart.*

(2)(a)~~(3)~~ A felony of the third degree shall be punishable as if it were a felony of the second degree.

(b)~~(4)~~ A felony of the second degree shall be punishable as if it were a felony of the first degree.

(c)~~(5)~~ A felony of the first degree shall be punishable as if it were a life felony.

Section 24. Applicable to sentencing for offenses committed on or after October 1, 1995, section 794.023, Florida Statutes, is amended to read:

794.023 Sexual battery by multiple perpetrators; enhanced penalties.—

(1) The Legislature finds that an act of sexual battery, when committed by more than one person, presents a great danger to the public and is extremely offensive to civilized society. It is therefore the intent of the Legislature to provide enhanced penalties for acts of sexual battery committed by more than one person.

(2) The penalty for a violation of s. 794.011 shall be increased as provided in this subsection if it is charged and proven by the prosecution that, during the same criminal transaction or episode, more than one person committed an act of sexual battery on the same victim.

(a) A felony of the second degree shall be punishable as if it were a felony of the first degree.

(b) A felony of the first degree shall be punishable as if it were a life felony.

This subsection does not apply to life felonies or capital felonies. *For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense which is reclassified under this subsection is ranked one level above the ranking under s. 921.0012 or s. 921.0013 of the offense committed.*

Section 25. Section 921.187, Florida Statutes, 1994 Supplement, is amended to read:

921.187 Disposition and sentencing; alternatives; restitution.—

(1) The alternatives provided in this section for the disposition of criminal cases shall be used in a manner which will best serve the needs of society, which will punish criminal offenders, and which will provide the opportunity for rehabilitation. ~~A court may:~~

(a) *If the offender does not receive a state prison sentence, a court may:* ~~If state incarceration is the best alternative:~~

1. Impose a split sentence whereby the offender is to be placed on probation upon completion of any specified period of such sentence, which period may include a term of years or less.

~~2. Sentence an offender to imprisonment in a state correctional institution.~~

2.~~3.~~ Make any other disposition that is authorized by law.

~~(b) If the offender is sentenced for a felony with respect to which the presumptive sentence pursuant to the sentencing guidelines allows incarceration in the state prison system for up to 22 months:~~

3.~~1.~~ Place the offender on probation with or without an adjudication of guilt pursuant to s. 948.01.

4.~~2.~~ Impose a fine and probation pursuant to s. 948.011 when the offense is punishable by both a fine and imprisonment and probation is authorized.

5.~~3.~~ Place the offender into community control requiring intensive supervision and surveillance pursuant to chapter 948.

6.~~4.~~ Impose, as a condition of probation or community control, a period of treatment which shall be restricted to a county facility, a Department of Corrections probation and restitution center, a probation program drug punishment treatment community, or a community residential or nonresidential facility, excluding a community correctional center as defined in s. 944.026, which is owned and operated by any qualified public or private entity providing such services. Before admission to such a facility, the court shall obtain an individual assessment and recommendations on the appropriate treatment needs ~~pursuant to chapter 953 or to the Community Control Implementation Manual~~, which ~~assessment and recommendations~~ shall be considered by the court in ordering such placements. Placement in such a facility, except for a county residential probation facility, may not exceed 364 days~~; however, with respect to a probation program drug punishment treatment community, such 364-day restriction shall apply only to the phase I secure residential institutional facilities~~. Placement in a county residential probation facility may not exceed 3 years. Early termination of placement *may* ~~shall~~ be recommended to the court, when appropriate, by the center supervisor, the supervising probation officer, or the probation program manager.

7.~~5.~~ Sentence the offender pursuant to s. 922.051 to imprisonment in a county jail when a statute directs imprisonment in a state prison, if the offender's cumulative sentence, whether from the same circuit or from separate circuits, is not more than 364 days.

8.~~6.~~ Sentence the offender who is to be punished by imprisonment in a county jail to a jail in another county if there is no jail within the county suitable for such prisoner pursuant to s. 950.01.

9.~~7.~~ Require the offender to participate in a work-release or educational or vocational training program pursuant to s. 951.24 while serving a sentence in a county jail, if such a program is available.

10.~~8.~~ Require the offender to perform a specified public service pursuant to s. 775.091.

11.~~9.~~ Require the offender who violates chapter 893 or violates any law while under the influence of a controlled substance or alcohol to participate in a substance abuse program.

12.~~10.~~a. Require the offender who violates any criminal provision of chapter 893 to pay an additional assessment in an amount up to the amount of any fine imposed, pursuant to ss. 893.13(8)(a) and 893.16.

b. Require the offender who violates any provision of s. 893.13 to pay an additional assessment in an amount of $100, pursuant to ss. 893.13(8)(b) and 943.361

13.~~11.~~ Impose a split sentence whereby the offender is to be placed in a county jail or county work camp upon the completion of any specified term of community supervision.

14.~~12.~~ Impose split probation whereby upon satisfactory completion of half the term of probation, the Department of Corrections may place the offender on administrative probation pursuant to s. 948.01 for the remainder of the term of supervision.

15.~~13.~~ Require residence in a state probation and restitution center or private drug treatment program for offenders on community control or *offenders* who have violated conditions of probation.

16.~~14.~~ Impose any other sanction which is provided within the community and approved as an intermediate sanction by *the* ~~that community's~~ county *public safety coordinating council* ~~correctional planning committee~~ as described in s. 951.26.

17.~~15.~~ Impose, as a condition of community control, probation, or probation following incarceration, a requirement that an offender who has not obtained a high school diploma or high school equivalency diploma or who lacks basic or functional literacy skills, upon acceptance by an adult education program, make a good faith effort toward completion of such basic or functional literacy skills or high school equivalency diploma, as defined in s. 229.814, in accordance with the assessed adult general education needs of the individual offender.

(b)~~(c)~~1. Notwithstanding any provision of s. 921.001 ~~or s. 775.084~~ to the contrary, on or after October 1, 1993, require any defendant who violates s 893 13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and meets the criteria described in s. 893.13(10), to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(1), in lieu of serving a term of imprisonment.

2. Notwithstanding any provision of s. 921.001 ~~or s. 775.084~~ to the contrary, on or after October 1, 1993, require any defendant who violates s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), and meets the criteria described in s. 893.13(11), to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(2), in lieu of serving a term of imprisonment.

(2) In addition to any other penalty provided by law for an offense enumerated in s. 775.0877(1)(a)-(l), if the offender is convicted of criminal transmission of HIV pursuant to s. 775.0877, the court may sentence the offender to criminal quarantine community control as described in s. 948.001.

(3) The court shall require an offender to make restitution under s. 775.089, unless the court finds clear and compelling reasons not to order such restitution. If the court does not order restitution, or orders restitution of only a portion of the damages, as provided in s. 775.089, the court shall state *the reasons* on the record in detail ~~the reasons therefor~~. An order requiring an offender to make restitution to a victim under s. 775.089 does not remove or diminish the requirement that the court order payment to the Crimes Compensation Trust Fund under chapter 960.

Section 26. Subsection (4) of section 944.275, Florida Statutes, is amended to read:

944.275 Gain-time.—

(4)(a) As a means of encouraging satisfactory behavior, the department shall grant basic gain-time at the rate of 10 days for each month of each sentence imposed on a prisoner, subject to the following:

1. Portions of any sentences to be served concurrently shall be treated as a single sentence when determining basic gain-time.

2. Basic gain-time for a partial month shall be prorated on the basis of a 30-day month.

3. When a prisoner receives a new maximum sentence expiration date because of additional sentences imposed, basic gain-time shall be granted for the amount of time the maximum sentence expiration date was extended.

(b) For each month in which *an inmate* ~~a prisoner~~ works diligently, participates in training, uses time constructively, or otherwise engages in positive activities, the department may grant ~~up to 20 days of incentive gain-time, which shall be credited and applied monthly.~~

~~(c) For each month in which a prisoner works diligently, participates in training, uses time constructively, or otherwise engages in positive activities, the departments may grant~~ incentive gain-time in accordance with this paragraph. *The rate of incentive gain-time in effect on the date the inmate committed the offense which resulted in his or her incarceration shall be the inmate's rate of eligibility to earn incentive gain-time throughout the period of incarceration and shall not be altered by a subsequent change in the severity level of the offense for which the inmate was sentenced.*

1. For sentences imposed for offenses committed prior to January 1, 1994, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

2. For sentences imposed for offenses committed on or after January 1, 1994, ~~for offenses which are, were, or would have been ranked on the offense severity chart in s. 921.0012 in:~~

a. For offenses ranked in offense severity levels 1 through 7, under s. 921.0012 or s. 921.0013

~~1. Levels 1 through 7~~, up to 25 days of incentive gain-time *may be granted. If granted, such gain-time*~~, which~~ shall be credited and applied monthly.

b. For offenses ranked in offense severity levels 8, 9, and 10, under s. 921.0012 or s. 921.0013

~~2. Levels 8, 9, and 10~~, up to 20 days of incentive gain-time *may be granted. If granted, such gain-time*~~, which~~ shall be credited and applied monthly.

(c)~~(d)~~ An inmate who performs some outstanding deed, such as saving a life or assisting in recapturing an escaped inmate, or who in some manner performs an outstanding service that would merit the granting of additional deductions from the term of his sentence may be granted meritorious gain-time of from 1 to 60 days.

(d)~~(e)~~ Notwithstanding paragraph (b), the education program manager shall recommend, and the Department of Corrections may grant, a one-time award of 60 additional days of incentive gain-time to an inmate who is otherwise eligible and who successfully completes requirements for and is awarded a general educational development certificate or vocational certificate. Under no circumstances may an inmate receive more than 60 days for educational attainment pursuant to this section.

Section 27. Paragraphs (b), (k), (l), and (m) of subsection (3) of section 947.146, Florida Statutes, 1994 Supplement, are amended to read:

947.146 Control Release Authority.—

(3) A panel of no fewer than two members of the authority shall establish a control release date for each parole ineligible inmate committed to the department and incarcerated within the state, within 90 days following notification by the department of receipt of the inmate or within 90 days following the completion of proceedings revoking an offender's release and notification by the department of receipt of the inmate, except an inmate who:

(b) Is serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2) *or (3), or s. 784.07(3)*;

(k)*1.* Is serving a sentence for an offense committed on or after January 1, 1994, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), or (5), and the subtotal of the offender's sentence points is multiplied pursuant to s. 921.0014;

2. Is serving a sentence for an offense committed on or after October 1, 1995, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), (5), (6), (7), or (8), and the subtotal of the offender's sentence points is multiplied pursuant to s. 921.0014; or

(l) Is serving a sentence for an offense committed on or after January 1, 1994, for possession of a firearm, *semiautomatic firearm, or machine gun* ~~or destructive device~~ in which additional points are added to the subtotal of the offender's sentence points pursuant to s. 921.0014~~; or~~

~~(m) Is serving a sentence for an offense committed on or after January 1, 1994, for possession of a semiautomatic weapon, and additional points are added to the subtotal of the offender's sentence points pursuant to s. 921.0014.~~

In making control release eligibility determinations under this subsection, the authority may rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense. The 90-day requirement for the establishment of a control release date for all eligible inmates for control release consideration does not apply to a person sentenced as a habitual felony offender.

Section 28. Section 960.293, Florida Statutes, 1994 Supplement, is amended to read:

960.293 Determination of damages and losses.—

(1) *In a civil suit for damages filed by a crime victim against a convicted offender, the crime victim is entitled to liquidated damages in an amount equal to the actual damages award.* ~~Upon conviction, a convicted offender shall be liable to the crime victim for damages and losses.~~

~~(a) The following liquidated damage amounts shall be assessed against the convicted offender and in favor of the crime victim:~~

~~1. Fifteen thousand dollars when the conviction is of a capital felony or life felony.~~

~~2. Ten thousand dollars when the conviction is of a felony of the first or second degree.~~

~~3. Five thousand dollars when the conviction is of a felony of the third degree.~~

~~4. One thousand dollars when the conviction is of a misdemeanor.~~

~~5. Five hundred dollars when the conviction is of a misdemeanor of the second degree.~~

~~In addition, if the criminal conduct resulting in the conviction caused the death of a crime victim, the amount for which the convicted offender is liable shall be increased by $25,000.~~

~~(b) The total amount of the liquidated damages shall be assessed against the convicted offender and in favor of each crime victim in the amount set forth in paragraph (a) for the highest conviction entered against the convicted offender for each criminal episode.~~

~~(c) The liquidated damage amount stated in this subsection shall not be admissible as evidence of damages in any civil proceeding.~~

(2) Upon conviction, a convicted offender *is* ~~shall be~~ liable to the state and its local subdivisions for damages and losses for incarceration costs and other correctional costs.

(a) If the conviction is for a capital or life felony, the convicted offender *is* ~~shall be~~ liable for incarceration costs and other correctional costs in the liquidated damage amount of $250,000.

(b) If the conviction is for an offense other than a capital or life felony, a liquidated damage amount of $50 per day of the convicted offender's sentence shall be assessed against the convicted offender and in favor of the state or its local subdivisions.

Section 29. Section 960.29, Florida Statutes, 1994 Supplement, is amended to read:

960.29 Legislative findings and intent.—The Legislature finds that former approaches to the problem of compensating crime victims through restitution have proven inadequate or have been inconsistently applied in many cases. The Legislature also finds that there is an urgent need to alleviate the increasing financial burdens on the state and its local subdivisions caused by the expenses of incarcerating convicted offenders.

(1) To remedy these problems, consistent with the preservation of all citizens' constitutional rights, the Legislature intends:

(a) To provide a legal mechanism, in the form of a civil restitution lien, that will enable crime victims, the state, and other aggrieved parties to recover damages and losses arising out of criminal acts,~~. The civil restitution lien shall be~~ imposed against the real and personal property owned by the convicted offender who ~~has~~ committed an offense *that caused the* ~~causing such~~ damages and losses.

(b) To prevent convicted offenders from increasing their assets after conviction, while their crime victims and the state and local subdivisions remain uncompensated for their damages and losses. To further this legislative purpose, the civil restitution lien shall attach not only to the offender's current assets but also, should these assets fail to satisfy the lien, to any future assets or "windfall" proceeds which may accrue to the defendant, up to the full amount of the lien.

(c) To ~~provide a schedule of liquidated damages, based on the type of crime committed, in order to facilitate swift and uniform determinations of the amounts of civil restitution liens, and to facilitate judicial convenience in entering restitution lien orders. To further these legislative purposes, a schedule of liquidated damages, based on the type of crime committed, shall be employed to assess the amounts of civil restitution liens. The schedule of liquidated damages shall also serve to~~ ensure that the amount of each civil restitution lien *equals* ~~bears a rational relation to~~ the amount of *the* actual damages *awarded in the civil action arising from* ~~incurred as a result of~~ the crime.

(d) To impose a long-term civil liability for the costs of incarceration, by means of the civil restitution lien, against a convicted offender, regardless of the offender's financial status at the time of conviction.

(2) The Legislature also finds that crime victims, the state, and its local subdivisions are entitled to rough remedial justice and they may demand compensation for damage and losses.

(3) The Legislature declares that:

(a) The intent of the statute is rationally related to the goal of fully compensating crime victims, the state, and its local subdivisions for damages and losses incurred as a result of criminal conduct.

(b) This *civil restitution lien* act rests upon the principle of remediation and not punishment, which is meted out by criminal sanctions afforded by law.

(4) The Legislature recognizes that, in many individual cases, the liquidated damage amount *awarded by the court in a civil action arising from the crime* ~~provided~~ does not fully compensate crime victims for their actual damages and losses. It is the legislative intent that the *civil restitution liens* ~~liquidated damages~~ authorized in this act *assist crime victims to collect the amounts awarded and authorized as actual and liquidated* ~~bear a rational relation to the~~ damages and losses a crime victim incurs as a result of a convicted offender's conduct, and the state and its local subdivisions incur as a result of implementation of a convicted offender's sentence.

Section 30. Subsection (5) of section 960.291, Florida Statutes, 1994 Supplement, is amended to read:

960.291 Definitions.—When used in this act, the term:

(5) "Damages or losses" includes:

(a) Damage or loss to any crime victim which is caused by the conduct of a convicted offender. This amount shall be determined by the court ~~according to the uniform schedule of liquidated damages~~, as provided for in s. 960.293.

(b) Damage or loss to the state and its local subdivisions which is caused by imposition of a convicted offender's sentence.

1. Such damage or loss to the state and its local subdivisions includes the costs of incarceration and other correctional costs in connection with the implementation of a state court's sentence. This cost shall be determined by the court ~~according to the uniform schedule of liquidated damages~~, as provided for in s. 960.293.

2. Such damage or loss to the state shall not include those costs on conviction for which the defendant may be held liable under chapter 939.

Section 31. For the purpose of incorporating the amendment to s. 960.293, Florida Statutes, in a reference thereto, subsection (1) of section 960.292, Florida Statutes, 1994 Supplement, is reenacted to read:

960.292 Enforcement of the civil restitution lien through civil restitution lien order.—The civil restitution lien shall be made enforceable by means of a civil restitution lien order.

(1) Upon conviction, the convicted offender shall incur civil liability for damages and losses to crime victims, the state, its local subdivisions, and aggrieved parties as set forth in s. 960.293. The conviction shall estop the convicted offender from denying the essential allegations of that offense in any subsequent proceedings.

Section 32. Section 960.294, Florida Statutes, 1994 Supplement, is amended to read:

960.294 Effect of civil restitution liens.—

(1) PROPERTY SUBJECT TO CIVIL RESTITUTION LIEN.—The civil restitution lien *is a lien* ~~shall exist~~ upon any real or personal property of the convicted offender. If the full amount of the civil restitution lien is not satisfied from the real or personal property owned at the time of conviction, the civil restitution lien also *is a lien* ~~shall exist~~ upon any real or personal property which the convicted offender comes to possess subsequent to conviction, until the full amount of the lien is satisfied.

(2) APPLICABILITY OF ALL JUDGMENT ENFORCEMENT REMEDIES.—*A civil restitution lien* ~~Such~~ order may be enforced by the crime victims, the state and its local subdivisions, or other aggrieved parties named in the civil restitution lien order, in the same manner as a judgment in a civil action, including levy against personal property by the sheriffs of this state and foreclosure against nonexempt real property. The provisions of chapter 726 apply to the transfer of the convicted offender's assets to a third party and all other judgment enforcement remedies that are available by law.

(3) RECORDING OF THE CIVIL RESTITUTION LIEN; LEVY BY SHERIFF.—The civil restitution lien order may be recorded in the public records. ~~There shall be~~ No charge *may be* assessed for the recording of *the* ~~such~~ civil restitution lien order.

(4) DURATION OF THE CIVIL RESTITUTION LIEN.—The civil restitution lien *continues* ~~shall continue~~ for a period of 20 years *after* ~~from~~ the date of entry of the civil restitution lien.

(5) RATE OF INTEREST.—A civil restitution lien ~~entered~~ under this *section bears* ~~part shall bear~~ the rate of interest~~, as~~ set forth in s. 55.03, from the date of its entry

Section 33. Section 960.295, Florida Statutes, 1994 Supplement, is amended to read:

960.295 Civil restitution lien supplemental to other forms of restitution available to lienholder.—

(1) PRESERVATION OF EXISTING RESTITUTION REMEDIES.—The civil restitution lien provided for in this *civil restitution lien* act *is intended to* ~~shall~~ enable crime victims, the state and its local subdivisions, and other aggrieved parties to seek a restitution remedy that is alternative and supplemental to existing statutory and common law remedies that are available for restitution. The rights of crime victims, the state and its local subdivisions, and other aggrieved parties to seek any existing remedy for restitution, *instead* ~~in lieu~~ of or in addition to seeking a civil restitution lien order under this *civil restitution lien* act, *is* ~~shall be~~ preserved.

(2) APPLICABILITY OF OTHER CIVIL REMEDIES; ESTOPPEL AS A LIMITATION UPON ENFORCEMENT.—A civil restitution lien order entered under this *civil restitution lien* act *does* ~~shall~~ not bar any subsequent civil remedy or recovery, but the amount of such restitution *must* ~~shall~~ be set off against any subsequent independent civil recovery. Notwithstanding this *civil restitution lien* act, the crime victim, the state and its local subdivisions, or other aggrieved parties *are* ~~shall~~ not ~~be~~ pre-

cluded from collecting costs on conviction ordered under chapter 939, relating to court costs; moneys awarded under this chapter, relating to victim assistance; moneys awarded by a restitution order under s. 775.089, relating to restitution; proceeds resulting from forfeitures ordered under chapter 895, relating to racketeering offenses and illegal debts; moneys distributed pursuant to a lien placed on the offender's property under s. 944.512, relating to the state lien on literary and other accounts of crimes; or inmate reimbursements under chapter 946, relating to correctional work programs, except that no duplicate recovery *may* ~~shall~~ be made in favor of crime victims, the state and its local subdivisions, and other aggrieved parties.

Section 34. Section 960.296, Florida Statutes, 1994 Supplement, is amended to read:

960.296 Construction and severability.—

(1) This *civil restitution lien* act supersedes law to the contrary. Notwithstanding any provision of law to the contrary, the provisions of this *civil restitution lien* act *are* ~~shall be~~ controlling over any conflicting law.

(2) If any provision of this *civil restitution lien* 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 35. Section 960.297, Florida Statutes, 1994 Supplement, is amended to read:

960.297 Authorization for governmental right of restitution for costs of incarceration.—

(1) The state and its local subdivisions, in a separate civil action or as counterclaim in any civil action, may seek recovery of the damages and losses set forth in s. 960.293.

(2) For those convicted offenders convicted *before* ~~prior to~~ July 1, 1994, the state and its local subdivisions, in a separate civil action or as a counterclaim in any civil action, may seek recovery of the damages and losses set forth in s. 960.293, for the convicted offender's remaining sentence after July 1, 1994.

Section 36. Effective October 1, 1995, subsection (2) is added to section 741.31, Florida Statutes, 1994 Supplement, to read:

741.31 Violation of an injunction for protection against domestic violence.—

(2) Any person who suffers an injury and/or loss as a result of a violation of an injunction for protection against domestic violence may be awarded damages for that injury and/or loss by the court issuing the injunction. Damages includes costs and attorneys fees for enforcement of the injunction.

Section 37. Effective October 1, 1995, section 768.35, Florida Statutes, is created to read:

768.35 Continuing domestic violence.—

(1) A victim of domestic violence, as defined in s. 741.28, who has suffered repeated physical or psychological injuries over an extended period of time, as a result of continuing domestic violence, has a cause of action against the perpetrator responsible for the violence.

(2) The action may be brought in any court of competent jurisdiction to recover compensatory and punitive damages against the perpetrator causing the continued domestic violence. No plaintiff however, may recover twice for the same incident which gives rise to the cause of action.

(3) Actions for recovery under this section must be commenced within four years. The time within which an action for recovery under this section must be begun runs from the time the last incident of domestic violence occurs.

(4) Notwithstanding any other provision of law, punitive damages awarded in any civil tort action involving domestic violence as defined in s. 741.28 shall not be governed by the provisions of s. 768.73. The state hereby waives its right to collect any punitive damages from any victim of domestic violence not collected as of the effective date of this act.

Section 38. Effective October 1, 1995, paragraphs (a) and (c) of subsection (8) and paragraph (a) of subsection (9) of section 784.046, Florida Statutes, 1994 Supplement, are amended to read:

784.046 Action by victim of repeat violence for protective injunction; powers and duties of court and clerk of court; filing and form of petition; notice and hearing; temporary injunction; issuance; statewide verification system; enforcement.—

(8)(a)1. The clerk of the court shall furnish a copy of the petition, notice of hearing, and temporary injunction, if any, to the sheriff or a law enforcement agency of the county where the respondent resides or can be found, who shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night. *The clerk of the court shall be responsible for furnishing to the sheriff such information on the respondent's physical description and location as is required by the department to comply with the verification procedures set forth in this section.* Notwithstanding any other provision of law to the contrary, the chief judge of each circuit, in consultation with the appropriate sheriff, may authorize a law enforcement agency within the chief judge's jurisdiction to effect this type of service and to receive a portion of the service fee. *No person shall be authorized or permitted to serve or execute an injunction issued under this section unless the person is a law enforcement officer as defined in chapter 943.*

2. When an injunction is issued, if the petitioner requests the assistance of a law enforcement agency, the court may order that an officer from the appropriate law enforcement agency accompany the petitioner and assist in the execution or service of the injunction. A law enforcement officer shall accept a copy of an injunction for protection against repeat violence, certified by the clerk of the court, from the petitioner and immediately serve it upon a respondent who has been located but not yet served.

(c)1. Within 24 hours after the court issues an injunction for protection against repeat violence or changes or vacates an injunction for protection against repeat violence, the clerk of the court must forward a copy of the injunction to the sheriff with jurisdiction over the residence of the petitioner.

2. Within 24 hours after service of process of an injunction for protection against repeat violence upon a respondent, the law enforcement officer must forward the written proof of service of process to the sheriff with jurisdiction over the residence of the petitioner.

3. Within 24 hours after the sheriff receives ~~both~~ a *certified* copy of the injunction for protection against repeat violence ~~and written proof of service of process upon the respondent~~, the sheriff must make information relating to the injunction available to other law enforcement agencies by electronically transmitting such information to the department.

4. Within 24 hours after the sheriff or other law enforcement officer has made service upon the respondent and the sheriff has been so notified, the sheriff must make information relating to the service available to other law enforcement agencies by electronically transmitting such information to the department.

5.~~4.~~ Within 24 hours after an injunction for protection against repeat violence is lifted, terminated, or otherwise rendered no longer effective by ruling of the court, the clerk of the court must notify the sheriff or local law enforcement agency receiving original notification of the injunction as provided in subparagraph 2. That agency shall, within 24 hours after receiving such notification from the clerk of the court, notify the department of such action of the court.

(9)(a) The court shall enforce, through a civil *or criminal* contempt proceeding, a violation of an injunction for protection. The court may enforce the respondent's compliance with the injunction by imposing a monetary assessment. The clerk of the court shall collect and receive such assessments. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the State Treasury for deposit in the Crimes Compensation Trust Fund established in s. 960.21.

Section 39. 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 40. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows:

Strike entire title and insert: A bill to be entitled An act relating to the justice system; creating the "Crime Control Act of 1995"; designating s. 1 of ch. 93-406 as s. 921.0001, F.S.; amending s. 921.001, F.S.; clarifying the applicability of specified sentencing guidelines; providing that felonies with continuing dates of enterprise be subject to specified sentencing guidelines; amending s. 921.0011, F.S., to revise definitions of "legal status" and "release program"; amending s. 921.0012, F.S.; placing the offense severity ranking chart into text format for statutory citation purposes; correcting numerical references for certain criminal offenses; specifically ranking certain felony offenses in the offense severity ranking chart; amending s. 921.0014, F.S., relating to the sentencing guidelines worksheet, to conform to changes in ss. 775.0823, 775.087, 784.07, and 921.0011, F.S., and to clarify terms; enhancing certain numerical values for primary, additional, and prior offenses; enhancing victim injury points for second degree murder, death, sexual penetration, and sexual contact; clarifying assessment of firearm or semiautomatic weapon points; providing multipliers for motor vehicle theft and attempted murder under L.E.P.A.; enhancing points for community sanction violations, prior serious felonies, and prior capital felonies; providing for life imprisonment under the guidelines; revising administrative duties; amending s 921.0016, F.S.; reducing the number of days for filing departure sentences; amending ss. 810.02 and 812.014, F.S., relating to burglary and theft, to technically restructure for purpose of clarifying placement in the offense severity ranking chart; amending ss. 538.23, 812.015, and 943.051, F.S., relating to secondary metals, retail and farm theft, and criminal justice information, to conform to the amendments to s. 812.014, F.S.; amending s. 777.03, F.S., relating to accessories after the fact; revising language; providing penalties; providing for sentencing under chapter 921; amending s. 777.04, F.S., to clarify language; enhancing penalties for criminal attempt and solicitation; amending s. 893.135, F.S.; clarifying penalties for certain offenses; revising penalties for certain drug trafficking offenses; amending s. 775.082, F.S.; enhancing punishment for life felonies; providing that all cross references to s. 775.082, F.S., are general cross references; amending s. 775.0823, F.S.; providing for sentencing of attempted murders under the Law Enforcement Protection Act; repealing s. 775.0825, F.S., to conform to the amendment to s. 775.0823, F.S.; amending s. 775.087, F.S.; conforming to the amendment to s. 784.07, F.S.; expanding criminal offenses subject to mandatory minimum sentencing; requiring the ranking of enhanced offenses one level above the offense committed; amending s. 784.07, F.S., relating to battery on a law enforcement officer, to conform to the amendment to s. 775.087, F.S.; amending ss. 775.0845, 775.0875, 794.023, and 874.04, F.S., relating to wearing a mask, unlawful use of law enforcement officer's firearm, sexual battery by multiple perpetrators, and criminal street gang activity, to require the ranking of enhanced offenses above the offense committed; amending s. 921.187, F.S., relating to disposition and sentencing alternatives, to conform to the act and to delete obsolete language; amending s. 944.275, F.S., relating to incentive gain-time; clarifying dates with respect to eligibility for gain-time; amending s. 947.146, F.S., relating to control release, to conform to the act and to delete obsolete language; precluding persons convicted of violating s. 775.0823, F.S., from control release eligibility; amending s. 960.293, F.S.; providing that a crime victim is entitled in a civil suit for damages to liquidated damages equal to the amount of actual damages; deleting a schedule of damage amounts to be assessed against a convicted offender for specified offenses; reenacting s. 960.292(1), F.S., relating to enforcement of civil restitution lien, to incorporate the amendment to s. 960.293, F.S., in a reference; amending ss. 960.29, 960.291, 960.292, 960.294, 960.295, 960.296, and 960.297, F.S., relating to legislative findings and intent, definitions, enforcement, effect of civil restitution liens, supplemental nature of liens, construction and severability, and authorization for certain governmental right of restitution, to conform; amending s. 741.31, F.S.; providing for civil remedies for victims of persons who violate an injunction for protection; amending s. 741.29, F.S.; providing legislative intent with respect to services for victims of domestic violence; amending s. 741.30, F.S.; requiring the clerk of the court to furnish the sheriff with specified information on respondents; revising guidelines for transmission of specified information by the sheriff; restricting the authority to serve or executive injunctions for protection against domestic violence to specified municipal or county law enforcement officers; amending s. 784.046, F.S., relating to protective injunctions against repeat violence; requiring the clerk of court to furnish the sheriff with specified information on respondents; revising guidelines for transmission of specified information by the sheriff; creating s. 768.35, F.S., providing for cause of action for continuing domestic violence; providing for severability; providing effective dates.

On motion by Senator Burt, the Senate concurred in the House amendment.

CS for SB 172 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 188 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 188—A bill to be entitled An act relating to eligibility for social and economic assistance; amending s. 409.185, F.S.; providing that payments under the program of aid to families with dependent children may not be increased in specified circumstances; requiring the Department of Health and Rehabilitative Services to apply for necessary federal waivers and to implement the foregoing restrictions when the waivers have been received; providing an effective date.

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

Section 1. Section 409.1855, Florida Statutes, is created to read:

409.1855 Learnfare program.—

(1) Pursuant to federal law and regulations, the department shall reduce the benefit payments for a participant's eligible dependent child or for an eligible teenage participant who has not been exempted from education participation requirements during a grading period in which the child or teenage participant has accumulated a number of unexcused absences from school that is sufficient to jeopardize the student's academic progress, in accordance with rules adopted by the department with input from the Department of Education. The benefit payments must be reinstituted after a subsequent grading period in which the child has substantially improved the child's attendance. Good cause exemptions from the rule of unexcused absences include the following:

(a) The student is expelled from school and alternative schooling is not available.

(b) The teen has a child under 6 months of age.

(c) No licensed day care is available for a child of teen parents subject to Learnfare.

(d) Prohibitive transportation problems exist (e.g., to and from day care).

(e) The teen is over 16 years of age and not expected to graduate from high school by age 20.

Fifteen days after sanction notification, the participant parent of a dependent child or the teenage participant may file an internal fair hearings process review procedure appeal, and no sanction shall be imposed until the appeal is resolved.

(2) Each recipient with a school-age child is required to have a conference with an appropriate school official of the child's school during each grading period to assure that the recipient is involved in the child's educational progress and is aware of any existing attendance or academic problems.

Section 2. Section 409.185, Florida Statutes, is amended to read:

409.185 Determination of eligibility for and amount of financial assistance; exclusions; report required.—

(1) The department shall provide financial assistance to needy persons who:

(a) Do not have sufficient income or other resources, as determined by the department, to provide reasonable subsistence compatible with decency and health.

(b) Have not made, within the 2 years immediately prior to the receipt of assistance or during receipt of assistance, an assignment, trans-

fer, sale, or gift of property, cash, or any other assets for the purpose of rendering or keeping themselves eligible for assistance under this chapter. The department shall investigate every application for financial assistance on which the applicant has indicated that an assignment, transfer, or sale of property, cash, or any other assets has been made, or whenever the department has reason to believe that such assignment, transfer, or sale has been made, within 2 years immediately prior to the date of application for the purpose of rendering or keeping *the applicant* ~~himself~~ eligible for assistance under this chapter.

(c) Meet the requirements of this chapter and the rules of the department.

(2) The department shall provide AFDC financial assistance to any person who is eligible for AFDC cash benefits as follows:

(a) For the first child conceived to an AFDC recipient while on AFDC, the department shall provide AFDC cash benefits equal to 50 percent of the maximum allowable amount.

(b) For a second or subsequent child conceived to an AFDC recipient while on AFDC, the department shall provide no AFDC cash benefits.

(c)—A victim of rape or incest is not subject to the withholding of benefits if she files a police report on the rape or incest.

(3)~~(2)~~ The department shall redetermine eligibility at periodic intervals, as determined necessary, for those receiving aid to families with dependent children. Such intervals, however, shall not exceed 12 months. The department may require periodic written reports from such recipients.

(4)~~(3)~~ The department shall determine the amount to be paid each month to recipients, taking into account all facts and circumstances surrounding the recipients, including income and resources. The department shall have access to automated files of other state agencies to obtain data relative to client eligibility, including income and resources. This access shall be for the purpose of determining correct benefits and reducing errors. Other state agencies, including, but not limited to, the Department of Labor and Employment Security, the Department of Highway Safety and Motor Vehicles, and the Department of the Lottery shall develop cooperative working agreements with the department to carry out the mandates of this section. In the determination of eligibility for financial assistance, the department shall disregard income and resources in accordance with federal law and shall:

(a) Exclude the home which is the usual residence of the assistance unit. For the purposes of this section, the term "home" means, if located outside a municipality, the dwelling house and up to 160 acres of contiguous land and improvements thereon or, if located within a municipality, the dwelling house and up to one-half acre of contiguous land.

(b) Exclude produce from a garden or livestock grown and used exclusively for consumption by the applicant or recipient and his family residing with him.

(c) Establish the resource limit and any other resources which shall be excluded in the eligibility determination.

(d) Exclude from the determination of eligibility for financial assistance all child support payments paid on behalf of any child disqualified from AFDC benefits pursuant to subsection (2).

(5) The department shall inform public assistance families of the advantages of the earned-income tax-credit option that is available as a wage supplement for low-wage working families with children and encourage them to take advantage of that credit.

(6) A child who is a full-time student in secondary school or vocational training, or the equivalent, and who is expected to complete the program by age 19, is eligible for basic AFDC benefits until the 19th birthday. The department shall begin to implement this subsection as soon as possible throughout the state, but no later than 3 months after the state receives federal waiver approval and a specific appropriation.

(7) Persons who are eligible for the AFDC unemployed parent program as provided for under s. 409.255 must be granted a waiver of the AFDC unemployed parent program 100-hour rule. The department shall begin to implement this subsection as soon as possible throughout the state, but no later than 3 months after the state receives federal waiver approval and a specific appropriation.

(8)~~(4)~~ The aid to families with dependent children standard of need shall be that which is recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services.

(a) The standard of need is the full money value required to provide basic and special needs recognized by the state as essential for applicants and recipients.

(b) The standard of need shall be updated annually to reflect increases or decreases in the Federal Poverty Income Guidelines.

(9)~~(5)~~ The Legislature shall set the payment standards by which payment for aid to families with dependent children are made in the General Appropriations Act. The standard of need shall be considered in establishing the payment standard. The payment standards shall be established in conformity with federal law.

(a) At the time the department submits its annual budget to the Governor, as provided by s. 216.023(1), it shall submit a report to the Governor on the current and projected dollar value of the standard of need and payment standards with respect to payments for aid to families with dependent children. The department shall make recommendations to the Governor regarding the payment standards and their relative relationship to the standard of need.

(b) The report shall also include:

1. Data and forecasts on changes in the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services for the period from the effective date of the last determination through the upcoming fiscal year.

2. A calculation indicating the value of the current payments as a percent of the current and projected dollar value of the standard of need for the upcoming fiscal year.

(c) The report shall be provided to the chairman of the health and rehabilitative services committee of each house of the Legislature, the chairman of the appropriations committee of each house, and the chairman of the appropriations subcommittee of each house that has jurisdiction over the budget of the Department of Health and Rehabilitative Services for consideration in setting the payment standards for aid to families with dependent children in the General Appropriations Act.

(10)~~(6)~~ The department shall issue aid to families with dependent children payments to eligible persons by state warrant, payable to the grantee or his legal representative. Methods of providing these payments shall comply with federal regulation and allow exceptions for protective, vendor, or two-party payments.

(a) The department may authorize protective, vendor, or two-party payments to a landlord only when the recipient's landlord is a public housing authority pursuant to s. 421.04.

(b) The department shall exercise the option to authorize vendor or two-party payments after it has established that the recipient has demonstrated mismanagement of the aid to families with dependent children grant in such a manner that the mismanagement presents a threat to the health and safety of the child. Mismanagement may be indicated when a recipient fails without good cause to pay rent to the public housing authority for two consecutive payments or an immediate threat of eviction for nonpayment of rent exists. For purposes of this section, rent shall be the amount charged to the recipient for use of the premises and shall not include other charges. The housing authority may pursue other remedies as under landlord and tenant law pursuant to chapter 83. Withholding of rent as provided for under the lease, applicable regulations, or s. 83.56 shall not constitute grounds for a finding of mismanagement that presents a threat to the health and safety of the child. The department shall establish rules to determine the types of conditions that manifest a threat to the health and safety of the child.

(c) If the department elects the option to institute a vendor or two-party payment of an aid to families with dependent children recipient's rent directly to the public housing authority, the department shall provide the recipient with an opportunity for a fair hearing upon request. The hearing may be held after the manner or form of payment has been changed. The department shall not be required to make payments under this section if it is determined that the public housing authority has failed to maintain the affected recipient's unit at standards in keeping with local housing authority rules.

(d) The department shall establish one or more pilot programs to determine the feasibility and effectiveness of vendor or two-party payment of an aid to families with dependent children recipient's rent directly to the landlord. The department shall determine the location of the pilot program based on criteria which includes the willingness of the housing authority to participate in the pilot project and the availability of existing services to assist recipients to manage their funds. In considering sites for the project, the department shall ensure that a housing authority selected pay any incremental cost of administering the payment system, including, but not limited to, any costs of modification of computer systems. The department shall also establish criteria for the pilot programs which promote self-sufficiency, such as the willingness of the housing authority to provide money-management skill training. A joint report shall be made annually to the Legislature by the participating housing authorities and the department as to the progress of the program. Input shall be solicited from the housing authorities, the department, and tenant participants. Three years from the date of implementation of the program developed pursuant to this section, the Legislature shall review the effectiveness of the program. Recommendations regarding the extension, expansion, or termination of the program shall be made at this time.

(e) The department shall make vendor or two-party payments to housing authorities upon the voluntary request of aid to families with dependent children recipients. No housing authority shall condition any rental agreement upon a recipient's agreement to allow vendor or two-party payments. The department shall develop written notice of the availability of the option to voluntarily request vendor or two-party payment to a housing authority. The housing authority shall be responsible for providing such notice to tenants receiving aid to families with dependent children at the same time any notice of nonpayment of rent is given. Recipients who voluntarily obtain vendor or two-party payment of rent and are current in their rent may voluntarily discontinue such two-party payments at any time, upon request.

(f) The department shall provide services which assist aid to families with dependent children recipients to develop greater ability to manage funds, to recipients on whose behalf vendor or two-party payments are made due to mismanagement of funds. The department shall document in the recipient's aid to families with dependent children case file all services provided to assist the recipient to develop greater ability to manage funds.

(g) The department shall review the need for vendor or two-party rent payment after 6 months, upon request by the recipient when the recipient's situation or circumstances have changed. The department shall terminate vendor or two-party payments when the department determines that the aid to families with dependent children recipient is considered able to manage funds in the best interest of the child.

(h) The department shall apply for a federal waiver if necessary to carry out the provisions of paragraphs (a), (b), and (c).

Section 3. Section 409.1857, Florida Statutes, is created to read:

409.1857 Community employment and work experience program.—

(1) To the extent funds are available and federal law permits, and to the extent approved by local government, every AFDC recipient not enrolled in a job training program, not participating in Project Independence or in a Family Transition Program, or not actively seeking employment must engage in 20 hours of community employment and work experience.

(2) The community employment and work experience is an employability-skills training program, consisting primarily of unpaid work performed for a public agency or a nonprofit agency, which provides to the participant the opportunity to develop basic work skills, to practice and improve existing skills, to acquire on-the-job experience, and to meet the goal of long-term self-sufficiency. A participant in community employment and work experience program is not an employee of the state, county, or local government and is not subject to chapter 440.

(3) A community employment and work experience program may be operated and administered at the option of a county or other subdivision of local government. If the county or other subdivision of local government elects to initiate a community employment and work experience program, it must assess the participant's employment skills, match the participant to a public agency or a nonprofit agency, monitor the progress of the participant's community employment and work experience and, within available resources, offer follow up and support services for a period of 6 months.

(4) If a participant fails without good cause, as defined by department rule, to participate in a community employment and work experience program activity, the department must impose sanctions against the participant to the fullest extent allowable under federal law.

(5) The department shall begin to implement this subsection as soon as possible throughout the state, but no later than 3 months after the state receives federal waiver approval and a specific appropriation.

Section 4. Subsection (4) of section 409.255, Florida Statutes, is amended to read:

409.255 Aid to families with dependent children; unemployed parent.—

(4) Eligibility under this section shall be limited to ~~6 months in~~ a 12-month period to encourage recipients to obtain employment and transition from welfare to work. *This extension of benefits is effective upon approval of a specific appropriation therefor by the Legislature.* ~~If allowable under federal regulations, exceptions to the 6-month time limitation shall be defined by the department.~~

Section 5. Subsections (1), (4) and (6) of section 817.58, Florida Statutes, are amended to read:

817.58 Definitions.—As used in ss. 817.57-817.685:

(1) "Acquirer" means a business organization, *governmental entity,* financial institution, or an agent of a business organization, *governmental entity* or financial institution that authorizes a merchant to accept payment by credit card for money, goods, services, or anything else of value.

(4) "Credit card" means any instrument or device, whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, *electronic benefits transfer (EBT) card,* or debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value on credit or for use in an automated banking device to obtain any of the services offered through the device.

(6) "Issuer" means the business organization, *state or federal government,* or financial institution, or its duly authorized agent, which issues a credit card.

Section 6. The Department of Health and Rehabilitative Services shall adopt rules governing the AFDC program to permit the program to provide full benefits to a family whose income does not exceed the state eligibility standard, in which the parents are married and reside in the same household, without placing restrictions on the employment of either parent. The department shall begin to implement this section as soon as possible throughout the state, but no later than 3 months after the state receives federal waiver approval and a specific appropriation.

Section 7. It is the intent of the Legislature that the foods purchased by eligible recipients of the food stamp program should be nutritious and meet the nutritional needs of the recipient. The Legislature therefore requests the Department of Health and Rehabilitative Services to correspond with the United States Department of Agriculture to urge the USDA to eliminate non-nutritional junk food from the list of foods otherwise eligible for purchase by a food stamp recipient. The USDA should be urged to adopt an approved food list based upon the USDA Food Pyramid and the Surgeon General's recommendations of the minimal daily requirements for a nutritious diet.

Section 8. The Department of Health and Rehabilitative Services shall immediately request all federal waivers necessary to implement this act. Any provision of law to the contrary notwithstanding, the department shall begin to implement this act as soon as possible throughout the state, but no later than 3 months after it receives federal waiver approval and specific appropriations.

Section 9. (1) The Department of Health and Rehabilitative Services shall establish an electronic benefit transfer program for the dissemination of food stamp benefits and aid to families with dependent children payments, including refugee cash assistance payments, asylum applicant payments, and child support disregard payments. If the Federal Government does not enact legislation or regulations providing for dissemination of supplemental security income by electronic benefit transfer, the state may include supplemental security income in the electronic benefit transfer program.

(2) The department shall, in accordance with applicable federal laws and regulations, develop minimum program requirements and other policy initiatives for the electronic benefit transfer program and shall have at least one operational pilot program in place by July 1, 1996.

(3) The department shall enter into public-private contracts for all provisions of electronic transfer of public assistance benefits, including, but not limited to, the necessary electronic equipment and technical support for the electronic benefit transfer pilot program.

Section 10. Section 409.3251, Florida Statutes, is created to read:

409.3251 Stop Inmate Fraud Program established; guidelines.—

(1) There is created within the Division of Public Assistance Fraud of the Office of the Auditor General a Stop Inmate Fraud Program.

(2) The division is directed to implement the Stop Inmate Fraud Program in accordance with the following guidelines:

(a) The program shall establish procedures for sharing public records not exempt from the public records law among social services agencies regarding the identities of persons incarcerated in state correctional institutions, as defined in s. 944.02(6), or in county, municipal, or regional jails or other detention facilities of local governments under chapter 950 or chapter 951 who are wrongfully receiving public assistance benefits or entitlement benefits.

(b) Pursuant to these procedures, the program shall have access to records containing correctional information not exempt from the public records law on incarcerated persons which have been generated as criminal justice information. As used in this paragraph, the term "record" is defined as provided in s. 943.045(7), and the term "criminal justice information" is defined as provided in s. 943.045(3).

(c) Data base searches shall be conducted of the inmate population at each correctional institution or other detention facility. A correctional institution or a detention facility shall provide the Stop Inmate Fraud Program with the information necessary to identify persons wrongfully receiving benefits in the medium requested by the Stop Inmate Fraud Program if the correctional institution or detention facility maintains the information in that medium.

(d) Data obtained from correctional institutions or other detention facilities shall be compared with the client files of the Department of Health and Rehabilitative Services, the Department of Labor and Employment Security, and other state or local agencies as needed to identify persons wrongfully obtaining benefits. Data comparisons shall be accomplished during periods of low information demand by agency personnel to minimize inconvenience to the agency.

(e) Results of data comparisons shall be furnished to the appropriate office for use in the county in which the data originated. The program may provide reports of the data it obtains to appropriate state, federal, and local government agencies or governmental entities, including, but not limited to:

1. The Child Support Enforcement Program of the Department of Revenue, so that the data may be used as locator information on persons being sought for purposes of child support.

2. The Social Security Administration, so that the data may be used to reduce federal entitlement fraud within the state.

(f) Reports by the program to another agency or entity shall be generated bimonthly, or as otherwise directed, and shall be designed to accommodate that agency's or entity's particular needs for data.

(g) Only those persons with active cases, or with cases that were active during the incarceration period, shall be reported, in order that the funding agency or entity, upon verification of the data, may take whatever action is deemed appropriate.

(h) For purposes of program review and analysis, each agency or entity receiving data from the program shall submit reports to the program which indicate the results of how the data was used.

Section 11. It is the intent of the Legislature that the Stop Inmate Fraud Program become operational within 6 months of the effective date of this act in order to meet the following initial goals of the program:

(1) The program shall provide reports with respect to 50 percent of the incarcerated populations within 6 months of the operational date of the program, and reports with respect to 80 percent of the incarcerated population within the following 6 months.

(2) The program shall provide reports with respect to all the correctional institutions and other facilities subject to the reporting requirement within 15 months of the operational date of the program.

Section 12. The Division of Public Assistance Fraud of the Office of the Auditor General shall designate a program director and other necessary personnel for the program. Data programming services and other support services shall be provided to the program by the division.

Section 13. There is hereby appropriated $64,350 from the General Revenue Fund to the Division of Public Assistance Fraud of the Office of the Auditor General to carry out the purposes of this act.

Section 14. This act shall take effect October 1, 1995.

And the title is amended as follows:

Strike everything before the enacting clause and insert: A bill to be entitled An act relating to public assistance; creating 409.1855, F.S.; creating the statewide learnfare program; requiring reduction in public assistance benefits under certain circumstances; providing good cause exemptions; providing for school conferences; amending 409.185, F.S.; reducing AFDC benefits for additional children born to AFDC recipients; requiring the department to inform public assistance families of the earned income tax credit; providing for full-time students to receive AFDC benefits until age 19; waiving the 100-hour rule for AFDC unemployed parent program; creating 409.1857, F.S.; providing for a community employment and work experience program; amending 409.255, F.S.; providing for a 12-month period for AFDC unemployed percent program; amending 817.58, F.S.; amending definitions; requiring the Department of Health and Rehabilitation to adopt rules for the AFDC program which do not place restrictions on the employment of either parent; recommending to the United States Department of Agriculture to modify its nutritious food list; requiring the Department of Health and Rehabilitative Services to seek federal waivers and to implement the programs after receiving the waiver and specific appropriations; requiring the Department of Health and Rehabilitative Services to establish an electronic benefit transfer program; providing for initiation of pilot programs by a specified date; directing the department to enter into public-private contracts; creating s. 409.3251, F.S.; creating a Stop Inmate Fraud Program within the Division of Public Assistance Fraud of the Office of the Auditor General; providing guidelines for the program; providing duties and responsibilities of the division relating to procedures for sharing of specified information on incarcerated persons with the Department of Health and Rehabilitative Services, the Department of Labor and Employment Security, and other governmental entities; providing for data reports to the Child Support Enforcement Program of the Department of Revenue and the Social Security Administration; providing reporting requirements for state agencies and other governmental entities involved in the program; providing legislative intent with respect to operation and initial goals of the program; providing for designation of program personnel and provision of support services by the division; providing an appropriation; providing an effective date.

On motion by Senator Brown-Waite, the Senate concurred in the House amendment.

SB 188 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—33 Nays—6

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 224 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 224—A bill to be entitled An act relating to public records; reviving and readopting s. 119.07(3)(aa), F.S., which provides for confidentiality of records relating to allegations of employment discrimination; providing for the continued confidentiality of such records; providing for future legislative review and repeal; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 13, strike everything after the enacting clause and insert:

Section 1. Paragraph (ee) is added to subsection (3) of section 119.07, Florida Statutes, 1994 Supplement, to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(3)

(ee) The audit report of an internal auditor prepared for or on behalf of a unit of local government becomes a public record when the audit becomes final. As used in this paragraph, "unit of local government" means a county, municipality, special district, local agency, authority, consolidated city-county government, or any other local governmental body or public body corporate or politic authorized or created by general or special law. An audit becomes final when the audit report is presented to the unit of local government. Audit workpapers and notes related to such audit report are confidential and exempt from the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution until the audit is completed and the audit report becomes final.

Section 2. The Legislature finds that it is a public necessity that certain workpapers and notes as well as non-final audit reports be held confidential and exempt until the audit is complete and the auditor's report becomes final in order that the auditor's investigation be conducted as efficiently and effectively as possible. Because non-final reports and supporting documentation become available prior to audit completion, misinformation is often disseminated to the public. This is harmful to the reputation and economic well-being of those who are being audited who are found in compliance. Furthermore, this exemption is sufficiently narrow in that all audit workpapers and notes as well as non-final drafts of reports become available upon completion of the audit and the report becomes final.

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

And the title is amended as follows:

On page 1, line 2, strike the title and insert: An act relating to public records; amending s. 119.07, F.S.; providing an exemption from the public records law for certain audit reports and workpapers by internal auditors for or on behalf of a unit of local government; defining "unit of local government"; providing that an audit report becomes final when presented to the unit of local government; making a finding with respect to the public necessity for such exemption; providing an effective date.

On motion by Senator Bankhead, the Senate concurred in the House amendment.

SB 224 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 226 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 226—A bill to be entitled An act relating to the confidentiality of certain health-care-related information; reviving, readopting, and amending s. 400.512(10), F.S., relating to the screening of home health agency personnel, nurse registry personnel, sitters, companions, and homemakers licensed or certified under ch. 400, F.S.; providing clarifying provisions; deleting a provision that subjects private business entities to the public records law; reviving, readopting, and amending s. 408.001, F.S.; restating the exemption from the public records law for certain data obtained by the Florida Health Care Purchasing Cooperative; reviving, readopting, and amending s. 408.061(1), (8), F.S.; restating the exemption from the public records law for certain facility, provider, and insurer data and patient records submitted to the Agency for Health Care Administration; providing for subsequent review and repeal; reviving, readopting, and amending s. 408.704(7), F.S., relating to grievance-appeal proceedings for community health purchasing alliances which are conducted by the Agency for Health Care Administration; providing for closure of grievance-appeal proceedings during consideration of exempted records or reports; reviving, readopting, and amending ss. 483.619, 483.621, F.S.; restating the exemption from the public records law for cholesterol-screening patients' clinical records and cholesterol-screening-center licensure inspection reports containing patient-identifying information; providing for subsequent review and repeal; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 2, line 9, strike everything after the enacting clause and insert:

Section 1. Notwithstanding the October 1, 1995, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (10) of section 400.512, Florida Statutes, 1994 Supplement, is reenacted and amended to read:

400.512 Screening of home health agency personnel, nurse registry personnel, and sitters, companions, and homemakers.—The Agency for Health Care Administration shall establish minimum standards of good moral character for home health agency personnel, persons referred for employment by nurse registries, and persons employed by sitter, companion, or homemaker services registered under s. 400.509.

(10) The Agency for Health Care Administration, the home health agency, nurse registry, or sitter, companion, or homemaker service registered under s. 400.509, may not use the criminal records, juvenile records, or central abuse registry information of a person for any purpose other than determining whether that person meets minimum standards of good moral character for home health agency personnel. The criminal records, juvenile records, or central abuse registry information obtained by the Agency for Health Care Administration, home health agency, nurse registry, or sitter, companion, or homemaker service for *determining the moral character of such personnel are confidential and* ~~such purpose is~~ exempt from *the provisions of* s. 119.07(1) *and s. 24(a), Art. I of the State Constitution.* This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 2. Notwithstanding paragraph 119.14(3)(a), Florida Statutes, paragraph (c) of subsection (2) of section 408.001, Florida Statutes, shall not stand repealed on October 1, 1995, as scheduled by that law, but that paragraph is revived, readopted, and amended, and subsection (4) is added to that section, to read:

408.001 Florida Health Care Purchasing Cooperative.—

(2) CORPORATION AUTHORIZATION, DUTIES, POWERS.—

(c) The Florida Health Care Purchasing Cooperative shall:

1. Establish administrative and accounting procedures for the operation of the corporation.

2. Secure staff necessary to properly administer the corporation.

3. Develop and implement a plan to publicize the Florida Health Care Purchasing Cooperative, the eligibility requirements for membership, and the procedures for becoming members of the cooperative and to maintain public awareness of the cooperative and its services.

4. Identify third-party payers and health care provider networks that serve members of the cooperative.

5. Collect data on costs and utilization of health care services from members of the cooperative, health care providers that provide services to employees and clients of members of the cooperative, and third-party payers for members of the cooperative. ~~The cooperative shall protect the confidentiality and regulate the disclosure of data and records collected and maintained by the cooperative when such data and records contain information:~~

~~a. Of a sensitive, personal or medical nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals; or~~

~~b. That is used to protect or further a business advantage over those who do not know or use that information, and the disclosure of which would injure the affected entity in the marketplace.~~

~~Notwithstanding s. 119.14, all information obtained prior to October 1, 2001, and determined to be confidential pursuant to this subparagraph is exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

6. Compare cost and utilization data collected pursuant to subparagraph 5. with data collected by the *Agency for Health Care Administra-*

tion ~~Health Care Cost Containment Board. Because of the importance of data collection and analysis to the success of the cooperative, the cooperative shall carry out its responsibilities in conjunction with the Health Care Cost Containment Board and use that board's data gathering and analysis capabilities as the board of directors considers appropriate.~~

7. Establish criteria for evaluating health care provider networks and third-party payers, seeking advice from providers and third-party payers serving members of the cooperative.

8. Evaluate health care provider networks and third-party payers.

9. Inform members of the cooperative about the results of evaluations of health care provider networks and third-party payers.

(4) CONFIDENTIALITY.—

(a) Patient medical records, patient insurance records, and portions of any other records obtained or generated by the cooperative which contain information that is patient-specific or that otherwise identifies a patient, either directly or indirectly, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Portions of records obtained or generated by the cooperative pursuant to this section which contain client lists, rates or rating methodologies, prices, discount amounts or formulas, contract terms, pricing methodologies, business plans, marketing strategies, client and vendor negotiations, or trade secrets as defined in s. 688.002, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 3. Notwithstanding the October 1, 1995, repeal specified in section 119.14(3)(a), Florida Statutes, subsections (1) and (8) of section 408.061, Florida Statutes, are reenacted and amended, subsection (10) is amended, subsections (9) through (13) are renumbered as subsections (10) through (14), respectively, and a new subsection (9) is added to said section, to read:

408.061 Data collection; uniform systems of financial reporting; information relating to physician charges; confidentiality of patient records; immunity.—

(Substantial rewording of subsection (1). See s. 408.061(1), F.S., for present text.)

(1) The agency may require the submission by health care facilities, health care providers, and health insurers of data necessary to carry out the agency's duties. Specifications for data to be collected under this section shall be developed by the agency with the assistance of technical advisory panels including representatives of affected entities, consumers, purchasers, and such other interested parties as may be determined by the agency.

(a) Data to be submitted by health care facilities may include, but are not limited to: case-mix data, patient admission or discharge data with patient and provider-specific identifiers included, actual charge data by diagnostic groups, financial data, accounting data, operating expenses, expenses incurred for rendering services to patients who cannot or do not pay, interest charges, depreciation expenses based on the expected useful life of the property and equipment involved, and demographic data. Data may be obtained from documents such as, but not limited to: leases, contracts, debt instruments, itemized patient bills, medical record abstracts, and related diagnostic information.

(b) Data to be submitted by health care providers may include, but are not limited to: Medicare and Medicaid participation, types of services offered to patients, amount of revenue and expenses of the health care provider, and such other data which are reasonably necessary to study utilization patterns.

(c) Data to be submitted by health insurers may include, but are not limited to: claims, premium, administration, and financial information.

(d) Data required to be submitted by health care facilities, health care providers, or health insurers shall not include specific provider contract reimbursement information. However, such specific provider reimbursement data shall be reasonably available for onsite inspection by the agency as is necessary to carry out the agency's regulatory duties. Any such data obtained by the agency as a result of onsite inspections may not be used by the state for purposes of direct provider contracting and are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(e) A requirement to submit data shall be adopted by rule if the submission of data is being required of all members of any type of health care facility, health care provider, or health insurer. Rules are not required, however, for the submission of data for a special study mandated by the Legislature or when information is being requested for a single health care facility, health care provider, or health insurer.

(8) *Portions of patient records* ~~A patient record~~ obtained *or generated* by the agency *containing*~~, which record contains~~ the name, residence or business address, telephone number, social security or other identifying number, or photograph of any person or the spouse, relative, or guardian of such person, or *any other identifying information* which ~~record~~ is patient-specific or otherwise identifies the patient, either directly or indirectly, *are* ~~is~~ confidential and exempt from the provisions of s. 119.07(1) *and s. 24(a), Art. I of the State Constitution.* This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(9) The identity of any health care provider, health care facility, or health insurer who submits any data which is proprietary business information to the agency pursuant to the provisions of this section shall remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. As used in this section, "proprietary business information" shall include, but not be limited to, information relating to specific provider contract reimbursement information; information relating to security measures, systems, or procedures; and information concerning bids or other contractual data, the disclosure of which would impair efforts to contract for goods or services on favorable terms or would injure the affected entity's ability to compete in the marketplace. Notwithstanding the provisions of this subsection, any information obtained or generated pursuant to the provisions of s. 407.61, either by the Health Care Cost Containment Board or by the Agency for Health Care Administration upon transfer to that agency of the duties and functions of the Health Care Cost Containment Board, is not confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such proprietary business information may be used in published analyses and reports or otherwise made available for public disclosure in such manner as to preserve the confidentiality of the identity of the provider. This exemption shall not limit the use of any information used in conjunction with investigation or enforcement purposes under the provisions of s. 455.225. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(11)~~(10)~~ The agency shall be the primary source for collection and dissemination of health care data. No other agency of state government may gather data from a health care provider licensed or regulated under this chapter without first determining if the data is currently being collected by the agency and affirmatively demonstrating that it would be more cost-effective for an agency of state government other than the agency to gather the health care data. The secretary shall ensure that health care data collected by the divisions within the agency is coordinated. It is the express intent of the Legislature that all health care data be collected by a single source within the agency and that other divisions within the agency, and all other agencies of state government, obtain data for analysis, regulation, and public dissemination purposes from that single source. *Confidential information may be released to other governmental entities or to parties contracting with the agency to perform agency duties or functions as needed in connection with the performance of the duties of the receiving entity. The receiving entity or party shall retain the confidentiality of such information as provided for herein.*

Section 4. Subsection (6) of section 408.05, Florida Statutes, and subsection (14) of section 408.061, Florida Statutes, as created by chapter 92-33, Laws of Florida, are hereby repealed.

Section 5. Subsection (4) of section 408.02, Florida Statutes, is amended to read:

408.02 Practice parameters.—

(4) The agency shall summarize the effectiveness and cost of care outcomes for each diagnosis by hospital, by district, by region, and across the state, as well as by any other grouping which will facilitate the develop-

ment of clinically relevant practice parameters. The agency shall make the report available to the public and all hospitals throughout the state on an annual basis beginning December 31, 1994. The agency shall also make detail data submitted pursuant to subsection (3) available for analysis by others, subject to protection of confidentiality pursuant to s. *408.061* ~~408.05(6)~~.

Section 6. Paragraph (b)5. of subsection (5) of section 408.704, Florida Statutes, is amended to read:

408.704 Agency duties and responsibilities related to community health purchasing alliances.—The agency shall assist in developing a statewide system of community health purchasing alliances. To this end, the agency is responsible for:

(5) Establishing a data system for accountable health partnerships.

(b) The advisory data committee shall issue a report and recommendations on each of the following subjects as each is completed. A final report covering all subjects must be included in the final Florida Health Plan to be submitted to the Legislature on December 31, 1993. The report shall include recommendations regarding:

5. Structuring the data collection process to:

a. Incorporate safeguards to ensure that the health care services utilization data collected is reviewed by experienced, practicing physicians licensed to practice medicine in this state;

b. Require that carrier customer satisfaction data conclusions are validated by the agency;

c. Protect the confidentiality of medical information to protect the patient's identity and to protect the privacy of individual physicians and patients. Proprietary data submitted by insurers, providers, and purchasers are confidential pursuant to s. 408.061~~(1)~~; and

d. Afford all interested professional medical and hospital associations and carriers a minimum of 60 days to review and comment before data is released to the public.

Section 7. Notwithstanding the October 1, 1995, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (7) of section 408.704, Florida Statutes, is reenacted and amended to read:

408.704 Agency duties and responsibilities related to community health purchasing alliances.—The agency shall assist in developing a statewide system of community health purchasing alliances. To this end, the agency is responsible for:

(7) Receiving appeals by members of an alliance and accountable health partnerships whose grievances were not resolved by the alliance. The agency shall review these appeals pursuant to chapter 120. Records or reports submitted as a part of a grievance proceeding conducted as provided for under this subsection *are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Records or reports of patient care quality assurance proceedings obtained or made by any member of a community health purchasing alliance or any member of an accountable health partnership and received by the agency as a part of a proceeding conducted pursuant to this subsection are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Portions of meetings held pursuant to the provisions of this subsection during which records held confidential pursuant to the provisions of this subsection are discussed are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution. All portions of any meeting closed to the public shall be recorded by a certified court reporter. For any portion of a meeting that is closed, the reporter shall record the times of commencement and termination of the meeting, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of the closed meeting shall be off the record. The court reporter's notes shall be fully transcribed and given to the appropriate records custodian within a reasonable time after the meeting. A copy of the original transcript, with information otherwise confidential or exempt from public disclosure redacted, shall be made available for public inspection and copying 3 years after the date of the closed meeting. These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.*~~, or patient care quality assurance proceedings, records, or reports obtained or made by any member of a community health purchasing alliance or any member of an accountable health partnership shall be held confidential by the agency and are exempt from s. 119.07(1). The exemption from s. 119.07(1) provided in this subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

Section 8. The Legislature finds that it is a public necessity that portions of meetings held pursuant to the provisions of section 408.704(7), Florida Statutes, be closed when records and reports held confidential pursuant to the provisions of said subsection are discussed. Failure to do so could result in the release of information of a sensitive personal or medical nature which could be defamatory to individuals or cause unwarranted damage to the name or reputation of an individual.

Section 9. This act shall take effect October 1, 1995.

And the title is amended as follows:

On page 1, line 4, through page 2, line 4, strike all of said lines and insert: amending s. 400.512, F.S., which provides an exemption from public records requirements for certain information obtained in connection with screening home health agency, nurse registry, and sitter, companion, or homemaker service personnel; revising the exemption and saving it from repeal; providing for future review and repeal; reviving, readopting, and amending s. 408.001, F.S.; restating the exemption from the public records law for certain data obtained by the Florida Health Care Purchasing Cooperative; amending s. 408.061, F.S., which provides exemptions from public records requirements for information submitted by health care facilities and providers and health insurers; saving the exemptions for specific provider contract reimbursement information and certain other proprietary business information from repeal; defining "proprietary business information"; revising the exemption for patient records obtained by the agency and saving it from repeal; authorizing the agency to release confidential information and requiring the receiving entity to retain its confidentiality; repealing s. 408.05(6), F.S., which provides for confidentiality of information maintained by the State Center for Health Statistics, and s. 408.061(14), F.S., which specifies that information filed with the agency not made confidential is open to public inspection; amending ss. 408.02 and 408.704, F.S., to conform; amending s. 408.704, F.S., which provides exemptions from public records requirements for records submitted as part of a grievance proceeding involving a community health purchasing alliance or accountable health partnership, and for certain patient care quality assurance proceedings and records; revising such exemptions and saving them from repeal; providing an exemption from public meeting requirements for meetings during which such confidential records are discussed; requiring that transcripts be made of closed meetings; providing for future review and repeal; providing a finding of public necessity;

On motion by Senator Gutman, the Senate concurred in the House amendment.

CS for SB 226 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 496 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 496—A bill to be entitled An act relating to confidentiality of the identity of crime victims; creating s. 92.56, F.S.; providing for confidentiality of records and proceedings in prosecutions for certain offenses; amending s. 119.07, F.S.; providing an exemption from the public records law for information that identifies the victims of certain offenses; authorizing disclosures to specified recipients; prohibiting disclosure of certain identifying information by a public officer or employee; providing a civil right of action for communicating the identity of victims of certain crimes; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 2, line 20, strike everything after enacting clause and insert:

Section 1. Short title.—This act shall be known and may be cited as the "Crime Victims Protection Act."

Section 2. Legislative findings and purpose and public necessity statement.—The Legislature finds and declares that:

(1) The state has compelling interests in assuring that the victims of sexual crimes report these offenses to the appropriate authorities, cooperate in the investigation and prosecution of cases, and testify at the criminal trials that may result.

(2) The fear of public identification and invasion of privacy are fundamental concerns for victims of sexual crimes. If these concerns are left unaddressed and the victims of sexual offenses left unprotected, then the victims may continue to refrain from reporting and prosecuting sexual crimes. The Legislature recognizes empirical data which shows that fear of public identification as a victim significantly reduces victims reporting crimes.

(3) A victim of a sexual crime may be harassed, intimidated, and psychologically harmed by a public report that identifies the victim. A sexual crime is, in many ways, a unique, distinctive, and intrusive personal trauma. The public disclosure of the victim's identity may have a traumatizing impact upon these vulnerable citizens.

(4) Pursuant to the right of privacy under s. 23, Art. I of the State Constitution, victims of sexual offenses like all our citizens have the right to be let alone and free from governmental intrusion into their private lives.

(5) Therefore, for the reasons stated in this section and for the protection of the victims of sexual offenses from harassment, intimidation, psychological trauma, and the unwarranted invasion of their privacy, the Legislature finds that it is a public necessity that disclosure to the public of victims' identities be limited as provided for in this act.

Section 3. Section 92.56, Florida Statutes, is created to read:

92.56 Judicial proceedings and court records involving sexual offenses.—

(1) All court records, including testimony from witnesses, that reveal the photograph, name, or address of the victim of an alleged offense described in chapter 794 or chapter 800, or act of child abuse, aggravated child abuse, or sexual performance by a child as described in chapter 827, are confidential and exempt from the provisions of s. 24(a), Art. I of the State Constitution and may not be made public if, upon a showing to the trial court with jurisdiction over the alleged offense, the state or the victim demonstrates that:

(a) The identity of the victim is not already known in the community;

(b) The victim has not voluntarily called public attention to the offense;

(c) The identity of the victim has not otherwise become a reasonable subject of public concern;

(d) The disclosure of the victim's identity would be offensive to a reasonable person; and

(e) The disclosure of the victim's identity would:

1. Endanger the victim because the assailant has not been apprehended and is not otherwise known to the victim;

2. Endanger the victim because of the likelihood of retaliation, harassment, or intimidation;

3. Cause severe emotional or mental harm to the victim;

4. Make the victim unwilling to testify as a witness; or

5. Be inappropriate for other good cause shown.

(2) If the court, pursuant to subsection (1), declares that all court records or other information that reveals the photograph, name, or address of the victim are confidential and exempt from s. 24(a), Art. I of the State Constitution, the defendant charged with the crime described in chapter 794 or chapter 800, or with child abuse, aggravated child abuse, or sexual performance by a child as described in chapter 827, may apply to the trial court for an order of disclosure of identifying information concerning the victim in order to prepare the defense. This paragraph may not be construed to prevent the disclosure of the victim's identity to the defendant; however, the defendant may not disclose the victim's identity to any person other than the defendant's attorney or any other person directly involved in the preparation of the defense. A willful and knowing disclosure of the identity of the victim to any other person by the defendant constitutes contempt.

(3) The state may use a pseudonym instead of the victim's name to designate the victim of a crime described in chapter 794 or chapter 800, or of child abuse, aggravated child abuse, or sexual performance by a child as described in chapter 827, in all court records and records of court proceedings.

(4) The protection of this section may be waived by the victim of the alleged offense in a writing filed with the court, in which the victim consents to the use or release of identifying information during court proceedings and in the records of court proceedings.

(5) This section does not prohibit the publication or broadcast of the substance of trial testimony in a prosecution for an offense described in chapter 794 or chapter 800, or a crime of child abuse, aggravated child abuse, or sexual performance by a child, as described in chapter 827, but the publication or broadcast may not include an identifying photograph, an identifiable voice, or the name or address of the victim, unless the victim has consented in writing to the publication and filed such consent with the court or unless the court has declared such records not confidential and exempt as provided for in subsection (1).

(6) A willful and knowing violation of this section or a willful and knowing failure to obey any court order issued under this section constitutes contempt.

Section 4. Paragraph (h) of subsection (3) of section 119.07, Florida Statutes, 1994 Supplement, is amended to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(3)(h) Any criminal intelligence information or criminal investigative information including the photograph, name, address, or other fact or information which reveals the identity of the victim of the crime of sexual battery as defined in chapter 794; the identity of the victim of the crime of lewd, lascivious, or indecent assault upon or in the presence of a child, as defined in chapter 800; or the identity of the victim of the crime of child abuse as defined by chapter 827 and any criminal intelligence information or criminal investigative information or other criminal record, including those portions of court records *and court proceedings*, which may reveal the identity of a person who is a victim of any sexual offense, including a sexual offense proscribed in chapter 794, chapter 800, or chapter 827, is exempt from the provisions of subsection (1).

Section 5. For the purpose of incorporating the amendment to s. 119.07(3)(h), Florida Statutes, in a reference thereto, paragraph (c) of subsection (3) of section 119.011, Florida Statutes, is reenacted to read:

119.011 Definitions.—For the purpose of this chapter:

(3)(c) "Criminal intelligence information" and "criminal investigative information" shall not include:

1. The time, date, location, and nature of a reported crime.

2. The name, sex, age, and address of a person arrested or of the victim of a crime except as provided in s. 119.07(3)(h).

3. The time, date, and location of the incident and of the arrest.

4. The crime charged.

5. Documents given or required by law or agency rule to be given to the person arrested, except as provided in s. 119.07(3)(h), and, except that the court in a criminal case may order that certain information required by law or agency rule to be given to the person arrested be maintained in a confidential manner and exempt from the provisions of s. 119.07(1) until released at trial if it is found that the release of such information would:

a. Be defamatory to the good name of a victim or witness or would jeopardize the safety of such victim or witness; and

b. Impair the ability of a state attorney to locate or prosecute a codefendant.

The exemptions in this subparagraph are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

6. Informations and indictments except as provided in s. 905.26.

Section 6. Section 794.024, Florida Statutes, is created to read:

794.024 Unlawful to disclose identifying information.—

(1) A public employee or officer who has access to the photograph, name, or address of a person who is alleged to be the victim of an offense described in this chapter, chapter 800, s. 827.03, s. 827.04, or s. 827.071 may not willfully and knowingly disclose it to a person who is not assisting in the investigation or prosecution of the alleged offense or to any person other than the defendant, the defendant's attorney, or a person specified in an order entered by the court having jurisdiction of the alleged offense, or to organizations authorized to receive such information pursuant to s. 119.07(3)(h).

(2) A violation of subsection (1) constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 7. Section 794.026, Florida Statutes, is created to read:

794.026 Civil right of action for communicating the identity of a sexual crime victim.—

(1) An entity or individual who communicates to others, prior to open judicial proceedings, the name, address, or other specific identifying information concerning the victim of any sexual offense under this chapter or chapter 800 shall be liable to that victim for all damages reasonably necessary to compensate the victim for any injuries suffered as a result of such communication.

(2) The victim shall not be able to maintain a cause of action unless he or she is able to show that such communication was intentional and was done with reckless disregard for the highly offensive nature of the publication.

Section 8. This act shall take effect October 1, 1995.

And the title is amended as follows:

On page 1, line 2, through page 2, line 17, strike all of said lines and insert: An act relating to protecting the identity of crime victims; creating the "Crime Victims Protection Act"; providing legislative findings and purpose and statement of public necessity; creating s. 92.56, F.S., providing for confidentiality of specified records and proceedings in prosecutions for offenses that are violations of ch. 794, F.S., relating to sexual battery, or ch. 800, F.S., relating to lewdness and indecent exposure, or acts of child abuse, aggravated child abuse, or sexual performance by a child as described in chapter 827, F.S., relating to abuse of children; providing contempt sanctions for willful and knowing disclosure of the victim's identity, under certain circumstances; amending s. 119.07, F.S.; revising an exemption from public records law requirements for identifying information with respect to victims of such offenses; reenacting s. 119.011(3)(c), F.S., relating to the definitions of "criminal intelligence information" and "criminal investigative information" with respect to public records exemptions, to incorporate the amendment to s. 119.07(3)(h), F.S., in a reference; creating s. 794.024, F.S.; prohibiting, and providing second-degree misdemeanor penalties for, willful and knowing disclosure by a public officer or employee of the photograph, name, or address of an alleged sexual crime victim, under certain circumstances; creating s. 794.026, F.S.; providing for a civil right of action for communicating the identity of a sexual crime victim; providing an effective date.

On motion by Senator Wexler, the Senate concurred in the House amendment.

SB 496 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—36 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 502 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 502—A bill to be entitled An act relating to confidentiality of communications between a domestic violence advocate and a domestic violence victim; creating s. 90.5036, F.S.; providing for confidentiality under the Florida Evidence Code of communications between a domestic violence advocate and a victim; amending s. 415.605, F.S.; requiring domestic violence centers applying for certification to file with the Department of Health and Rehabilitative Services a list of persons who provide services at the center who may claim a privilege to refuse to disclose such communications; providing an effective date.

House Amendment 1—On page 1, line 27 through page 2, line 2 strike all of said lines and insert:

(b) A "domestic violence advocate" means any employee or volunteer who has 30 hours of training in assisting victims of domestic violence and is an employee of or volunteer for a program for victims of domestic violence whose primary purpose is the rendering of advice, counseling, or assistance to victims of domestic violence.

House Amendment 2—On page 1, line 21, strike: "counselor" and insert: advocate

House Amendment 3 (with Title Amendment)—On page 1, line 18, insert:

Section 1. Section 741.31, Florida Statutes, 1994 Supplement, is amended to read:

741.31 Violation of an injunction for protection against domestic violence.—

(1) A person who willfully violates an injunction for protection against domestic violence, issued pursuant to s. 741.30, by *violating the specific terms of the injunction, which may include*:

(a)~~(1)~~ Refusing to vacate the dwelling that the parties share;

(b)~~(2)~~ *Going to the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family member* ~~Returning to the dwelling or the property that the parties share~~;

(c)~~(3)~~ Committing an act of domestic violence against the petitioner; ~~or~~

(d)~~(4)~~ Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner; *or*~~, coupled with an apparent ability to do so, and through doing some act that creates a well-founded fear that such violence is imminent~~

(e) Telephoning, contacting or otherwise communicating with the petitioner directly or indirectly unless the injunction allows indirect contact through a third party;

is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who violates an injunction for protection against domestic violence, issued pursuant to s. 741.30, by violating the specific terms of the injunction, which may include:

(a) Refusing to vacate the dwelling that the parties share;

(b) Going to the plaintiff's residence, school, place of employment or a specified place frequented regularly by the plaintiff and any named family or household members.

(c) Committing an act of domestic violence against the petitioner; or

(d) Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner, or;

(e) Telephoning, contacting or otherwise communicating with the plaintiff directly or indirectly unless the injunction specifically allows indirect contact through a third party

or commits an act of domestic violence, as defined in s. 741.28, is subject to the civil proceedings as described in this subsection. Any plaintiff whose rights are deprived or infringed upon by anyone who violates an injunction for protection against domestic violence or commits an act of domestic violence shall have a cause of action against the person who violated the injunction for protection against domestic violence or committed an act of domestic violence. The action may be brought in any court of competent jurisdiction, and the court may order the plaintiff to recover actual damages, including, but not limited to, cost for shelter or emergency housing, loss of earnings or support, out-of-pocket losses for injuries suffered or property damaged, medical expenses, moving expenses, and the cost for obtaining an unlisted telephone number. Any

plaintiff who prevails in any such action may be entitled to recover reasonable attorney's fees and costs of the action. A cause of action filed pursuant to this subsection may be sought whether or not any other cause of action is currently pending between the parties, including causes of action filed pursuant to chapter 61. However, the pendency of any such cause of action shall be alleged in the petition. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to the plaintiff.

(3) Notwithstanding any other provision of law, punitive damages awarded in any civil tort action involving domestic violence as defined in s. 741 28 shall not be governed by the provisions of s. 768.73. The state hereby waives its right to collect any punitive damages from any victim of domestic violence not collected as of the effective date of this act.

Section 2. Section 768.35, Florida Statutes, is created to read:

768.35 Continuing domestic violence.—

(1) A victim of domestic violence, as defined in s. 741.28, who has suffered repeated physical or psychological injuries over an extended period of time, as a result of continuing domestic violence, has a cause of action against the perpetrator responsible for the violence.

(2) The action may be brought in any court of competent jurisdiction to recover actual and punitive damages against the perpetrator causing the continued domestic violence. Any plaintiff who prevails in any such action may be entitled to recover reasonable attorney's fees, costs of the action, and damages. Prevailing defendants may be entitled to recover attorney's fees pursuant to s. 57.105. The remedies provided in this section are in addition to and cumulative with other legal remedies available to the plaintiff.

(3) Actions for recovery under this section must be commenced within four years. The time within which an action for recovery under this section must be begun runs from the time the last incident of domestic violence occurs.

Section 3. Section 741.29, Florida Statutes, 1994 Supplement, is amended to read:

741.29 Domestic violence; investigation of incidents; notice to victims of legal rights and remedies; reporting.—

(1) Any law enforcement officer who investigates an alleged incident of domestic violence shall assist the victim to obtain medical treatment if such is required as a result of the alleged incident to which the officer responds. Any law enforcement officer who investigates an alleged incident of domestic violence shall advise the victim of such violence that there is a domestic violence center from which the victim may receive services. The law enforcement officer shall give the victim immediate notice of the legal rights and remedies available on a standard form developed and distributed by the department. As necessary, the department shall revise the Legal Rights and Remedies Notice to Victims to include a general summary of s. 741.30 using simple English as well as Spanish, and shall distribute the notice as a model form to be used by all law enforcement agencies throughout the state. The notice shall include:

(a) The resource listing, including telephone number, for the area domestic violence center designated by the Department of Health and Rehabilitative Services; and

(b) A copy of the following statement: "IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you may ask the state attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an injunction for protection from domestic violence which may include, but need not be limited to, provisions which restrain the abuser from further acts of abuse; direct the abuser to leave your household; prevent the abuser from entering your residence, school, business, or place of employment; award you custody of your minor child or children; and direct the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."

(2) When a law enforcement officer investigates an allegation that an incident of domestic violence has occurred, the officer shall handle the incident pursuant to the arrest policy provided in s. 901.15(7)(a), and as developed in accordance with subsections ~~(3)~~, (4), ~~and~~ (5) *and (6)*. Whether or not an arrest is made, the officer shall make a written police report as part of the field arrest and incident reporting form and as prescribed by the department of the alleged incident which clearly indicates that the alleged offense was an incident of domestic violence. Such report must include:

(a) A description of physical injuries observed, if any.

(b) If an arrest was not made, an indication by the law enforcement officer, in writing, of the reasons why an arrest was not made.

(c) A statement which indicates that a copy of the legal rights and remedies notice was given to the victim.

Whenever possible, the law enforcement officer shall obtain a written statement from the victim and witnesses concerning the alleged domestic violence. The officer shall submit the report to the supervisor or other person to whom the employer's rules or policies require reports of similar allegations of criminal activity to be made. The law enforcement agency shall, without charge, send a copy of the initial police report, which excludes victim/witness statements or other materials that are part of an active criminal investigation and are exempt from disclosure under chapter 119, to the nearest locally certified domestic violence center within 24 hours after the agency's receipt of the report. The report furnished to the domestic violence center must include a narrative description of the domestic violence incident.

(3) Whenever a law enforcement officer determines upon probable cause that an act of domestic violence has been committed within the jurisdiction the officer may arrest the person or persons suspected of its commission and charge such person or persons with the appropriate crime. The decision to arrest and charge shall not require consent of the victim or consideration of the relationship of the parties.

(4) When complaints are received from two or more parties, the officers shall evaluate each complaint separately to determine whether there is probable cause for arrest.

(5) No law enforcement officer shall be held liable, *in any civil action,* ~~pursuant to s. 901.15(7)(b)~~, for an arrest based on probable cause, *enforcement in good faith of a court order, or services of process in good faith under this chapter arising from an alleged incident of domestic violence brought by any party to the incident.*

Section 4. Paragraphs (a) and (c) of subsection (7) of section 741.30, Florida Statutes, 1994 Supplement, are amended to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.—

(7)(a)1. The clerk of the court shall furnish a copy of the petition, financial affidavit, *uniform child custody jurisdiction act affidavit* if any, notice of hearing, and temporary injunction, if any, to the sheriff or a law enforcement agency of the county where the respondent resides or can be found, who shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night. *The clerk of the court shall be responsible for furnishing to the sheriff such information on the respondent's physical description and location as is required by the department to comply with the verification procedures set forth in this section.* Notwithstanding any other provision of law to the contrary, the chief judge of each circuit, in consultation with the appropriate sheriff, may authorize a law enforcement agency within the ~~chief judge's~~ jurisdiction to effect ~~this type of~~ service. A law enforcement agency serving injunctions pursuant to this section shall use service and verification procedures consistent with those of the sheriff. *No person shall be authorized or permitted to serve or execute an injunction issued under this section unless the person is a law enforcement officer as defined in chapter 943.*

2. When an injunction is issued, if the petitioner requests the assistance of a law enforcement agency, the court may order that an officer from the appropriate law enforcement agency accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution or service of the injunction. A law enforcement officer shall accept a copy of an injunction for protection against domestic violence, certified by the clerk of the court, from the petitioner and immediately serve it upon a respondent who has been located but not yet served.

3. All orders issued, changed, continued, extended, or vacated subsequent to the original service of documents enumerated under subparagraph (7)(a)1., shall be certified by the clerk of the court and delivered to the parties at the time of the entry of the order. The parties may acknowledge receipt of such order in writing on the face of the original order. In the event a party fails or refuses to acknowledge the receipt of a certified copy of an order, the clerk shall note on the original order

that service was effected. If delivery at the hearing is not possible, the clerk shall mail certified copies of the order to the parties at the last known address of each party. Service by mail is complete upon mailing. When an order is served pursuant to this subsection, the clerk shall prepare a written certification to be placed in the court file specifying the time, date, and method of service and shall notify the sheriff.

If the respondent has been served previously with the temporary injunction and has failed to appear at the initial hearing on the temporary injunction, any subsequent petition for injunction seeking an extension of time may be served on the respondent by the clerk of the court by certified mail in lieu of personal service by a law enforcement officer.

(c)1. Within 24 hours after the court issues an injunction for protection against domestic violence or changes, *continues, extends,* or vacates an injunction for protection against domestic violence, the clerk of the court must forward a copy of the injunction for service to the sheriff with jurisdiction over the residence of the petitioner. The injunction must be served in accordance with this subsection.

2. Within 24 hours after service of process of an injunction for protection against domestic violence upon a respondent, the law enforcement officer must forward the written proof of service of process to the sheriff with jurisdiction over the residence of the petitioner.

3. Within 24 hours after the sheriff receives ~~both~~ a *certified* copy of the injunction for protection against domestic violence ~~and written proof of service of process upon the respondent~~, the sheriff must make information relating to the injunction available to other law enforcement agencies by electronically transmitting such information to the department.

4. Within 24 hours after the sheriff or other law enforcement officer has made service upon the respondent and the sheriff has been so notified, the sheriff must make information relating to the service available to other law enforcement agencies by electronically transmitting such information to the department.

5.~~4.~~ Within 24 hours after an injunction for protection against domestic violence is *vacated* ~~lifted~~, terminated, or otherwise rendered no longer effective by ruling of the court, the clerk of the court must notify the sheriff receiving original notification of the injunction as provided in subparagraph 2. That agency shall, within 24 hours after receiving such notification from the clerk of the court, notify the department of such action of the court.

(8)(a) The court *may* ~~shall~~ enforce~~,~~ *a violation of an injunction for protection against domestic violence,* through a civil *or criminal* contempt proceeding, *or the state attorney may prosecute it as* ~~a violation of an injunction for protection which is not~~ a criminal violation under s. 741.31. The court may enforce the respondent's compliance with the injunction *through any appropriate civil or criminal remedies, including, but not limited to* ~~by imposing~~ a monetary assessment *or a fine.* The clerk of the court shall collect and receive such assessments *or fines.* On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the State Treasury for deposit in the *marriage license fee trust fund established in s. 741.01.* ~~Displaced Homemaker Trust Fund established in s. 410.30.~~

(b) If the respondent is arrested by a law enforcement officer under s. 901.15(6) or for a violation of s. 741.31, the respondent shall be held in custody until brought before the court as expeditiously as possible for the purpose of enforcing the injunction and for admittance to bail in accordance with chapter 903 and the applicable rules of criminal procedure, pending a hearing.

Section 5. Paragraphs (a) and (c) of subsection (8) and paragraph (a) of subsection (9) of section 784.046, Florida Statutes, 1994 Supplement, are amended to read:

784.046 Action by victim of repeat violence for protective injunction; powers and duties of court and clerk of court; filing and form of petition; notice and hearing; temporary injunction; issuance; statewide verification system; enforcement.—

(8)(a)1. The clerk of the court shall furnish a copy of the petition, notice of hearing, and temporary injunction, if any, to the sheriff or a law enforcement agency of the county where the respondent resides or can be found, who shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night. *The clerk of the court shall be responsible for furnishing to the sheriff such information on the respondent's physical description and location as is required by the department to comply with the verification procedures set forth in this section.* Notwithstanding any other provision of law to the contrary, the chief judge of each circuit, in consultation with the appropriate sheriff, may authorize a law enforcement agency within the chief judge's jurisdiction to effect this type of service and to receive a portion of the service fee. *No person shall be authorized or permitted to serve or execute an injunction issued under this section unless the person is a law enforcement officer as defined in chapter 943.*

2. When an injunction is issued, if the petitioner requests the assistance of a law enforcement agency, the court may order that an officer from the appropriate law enforcement agency accompany the petitioner and assist in the execution or service of the injunction. A law enforcement officer shall accept a copy of an injunction for protection against repeat violence, certified by the clerk of the court, from the petitioner and immediately serve it upon a respondent who has been located but not yet served.

(c)1. Within 24 hours after the court issues an injunction for protection against repeat violence or changes or vacates an injunction for protection against repeat violence, the clerk of the court must forward a copy of the injunction to the sheriff with jurisdiction over the residence of the petitioner.

2. Within 24 hours after service of process of an injunction for protection against repeat violence upon a respondent, the law enforcement officer must forward the written proof of service of process to the sheriff with jurisdiction over the residence of the petitioner.

3. Within 24 hours after the sheriff receives ~~both~~ a *certified* copy of the injunction for protection against repeat violence ~~and written proof of service of process upon the respondent~~, the sheriff must make information relating to the injunction available to other law enforcement agencies by electronically transmitting such information to the department.

4. Within 24 hours after the sheriff or other law enforcement officer has made service upon the respondent and the sheriff has been so notified, the sheriff must make information relating to the service available to other law enforcement agencies by electronically transmitting such information to the department.

5.~~4.~~ Within 24 hours after an injunction for protection against repeat violence is lifted, terminated, or otherwise rendered no longer effective by ruling of the court, the clerk of the court must notify the sheriff or local law enforcement agency receiving original notification of the injunction as provided in subparagraph 2. That agency shall, within 24 hours after receiving such notification from the clerk of the court, notify the department of such action of the court.

(9)(a) The court shall enforce, through a civil *or criminal* contempt proceeding, a violation of an injunction for protection. The court may enforce the respondent's compliance with the injunction by imposing a monetary assessment. The clerk of the court shall collect and receive such assessments. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the State Treasury for deposit in the Crimes Compensation Trust Fund established in s. 960.21.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, lines 2 through 4, strike all of said lines and insert: An act relating to domestic violence; amending s. 741.31, F.S.; providing for civil remedies for victims of persons who violate an injunction for protection; amending s. 741.29, F.S.; providing legislative intent with respect to services for victims of domestic violence; amending s. 741.30, F.S.; requiring the clerk of the court to furnish the sheriff with specified information on respondents; revising guidelines for transmission of specified information by the sheriff; restricting the authority to serve or executive injunctions for protection against domestic violence to specified municipal or county law enforcement officers; amending s. 784.046, F.S., relating to protective injunctions against repeat violence; requiring the clerk of court to furnish the sheriff with specified information on respondents; revising guidelines for transmission of specified information by the sheriff; creating s. 768.35, F.S., providing for cause of action for continuing domestic violence;

Senator Kurth moved the following amendment which was adopted:

Senate Amendment 1 (with Title Amendment) to House Amendment 3—On page 1, line 12 through page 13, line 22, strike all of said lines and insert:

Section 3. Paragraph (l) is added to subsection (1) of section 381.0038, Florida Statutes, to read:

381.0038 Education.—The Department of Health and Rehabilitative Services shall establish a program to educate the public about the threat of acquired immune deficiency syndrome.

(1) The acquired immune deficiency syndrome education program shall:

(l) Contain components that include information about domestic violence and the risk factors associated with domestic violence and AIDS.

Section 4. Paragraph (c) of subsection (1) of section 415.603, Florida Statutes, 1994 Supplement, is amended, paragraph (f) is added to said subsection, and subsection (6) of said section is amended, to read:

415.603 Duties and functions of the department with respect to domestic violence.—

(1) The department shall:

(c) Receive and approve or reject applications for certification of domestic violence centers, and receive and approve or reject applications for funding of domestic violence centers. *When approving funding for a newly certified domestic violence center, the department shall make every effort to minimize any adverse economic impact on existing certified centers or services provided within the same district. In order to minimize duplication of services, the department shall make every effort to encourage subcontracting relationships with existing centers within the district. If any of the required services are exempted by the department under s. 415.605(1)(c), the center shall not receive funding for those services.*

(f) Promote the involvement of certified domestic violence centers in the coordination, development, and planning of domestic violence programming in the districts and the state.

(6) The department shall contract with a statewide association whose primary purpose is to represent and provide technical assistance to domestic violence centers. This association shall receive 2 percent of the *Marriage License Fee Trust Fund* ~~marriage license trust fund fees~~ for this purpose.

Section 5. Paragraph (c) of subsection (1) of section 415.605, Florida Statutes, 1994 Supplement, is amended, and paragraphs (g) and (h) are added to said subsection, to read:

415.605 Domestic violence centers.—

(1) In order to be certified under ss. 415.601-415.608, each domestic violence center must:

(c) Provide minimum services which include, but are not limited to, information and referral services, counseling and case management services, temporary emergency shelter for more than 24 hours, a 24-hour hotline, training for law enforcement personnel, assessment and appropriate referral of resident children, and educational services for community awareness relative to the incidence of domestic violence, the prevention of such violence, and the care, treatment, and rehabilitation for persons engaged in or subject to domestic violence. *If a 24-hour hotline, professional training, or community education are already provided by a certified domestic violence center within a district, the department may exempt such certification requirements for a new center serving the same district in order to avoid duplication of services.*

(g) Demonstrate local need and ability to sustain operations through a history of 18 consecutive months' operation as a domestic violence center, including 12 months' operation of an emergency shelter as defined in paragraph (1)(a), and a business plan which addresses future operations and funding of future operations.

(h) If its center is a new center applying for certification, demonstrate that the services provided address a need identified in the most current statewide needs assessment approved by the department.

Section 6. Section 455.222, Florida Statutes, is created to read:

455.222 Requirement for instruction on domestic violence.—

(1)(a) As of July 1, 1995, the appropriate board shall require each person licensed or certified under chapter 458, chapter 459, chapter 464, chapter 466, chapter 467, chapter 490, or chapter 491 to complete a 1-hour continuing education course, approved by the board, on domestic violence, as defined in s. 741.30, as part of biennial relicensure or recertification. The course shall consist of information on the number of patients in that professional's practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence, and instruction on how to provide such patients with information on, or how to refer such patients to, resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services.

(b) Each such licensee or certificateholder shall submit confirmation of having completed such course, on a form provided by the board, when submitting fees for each biennial renewal.

(c) The board may approve additional equivalent courses that may be used to satisfy the requirements of paragraph (a). Each licensing board that requires a licensee to complete an educational course pursuant to this subsection may include the hour required for completion of the course in the total hours of continuing education required by law for such profession unless the continuing education requirements for such profession consist of fewer than 30 hours biennially.

(d) Any person holding two or more licenses subject to the provisions of this subsection shall be permitted to show proof of having taken one board-approved course on domestic violence, for purposes of relicensure or recertification for additional licenses.

(e) Failure to comply with the requirements of this subsection shall constitute grounds for disciplinary action under each respective practice act and under s. 455.227(1)(g). In addition to discipline by the board, the licensee shall be required to complete such course.

(2) The board shall also require, as a condition of granting a license under any chapter specified in paragraph (1)(a), that each applicant for initial licensure under the appropriate chapter complete an educational course acceptable to the board on domestic violence which is substantially equivalent to the course required in subsection (1). An applicant who has not taken such course at the time of licensure shall, upon submission of an affidavit showing good cause, be allowed 6 months to complete such requirement.

(3) Each board may adopt rules to carry out the provisions of this section.

(4) Each board shall report to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the appropriate substantive committees of the Legislature by March 1 of each year as to the implementation of and compliance with the requirements of this section.

Section 7. Paragraph (s) is added to subsection (1) of section 455.227, Florida Statutes, 1994 Supplement, to read:

455 227 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(s) Failing to comply with the educational course requirements for domestic violence.

Section 8. Paragraph (g) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(g) Unfair discrimination.—

1. Knowingly making or permitting any unfair discrimination between individuals of the same actuarially supportable class and equal expectation of life, in the rates charged for any life insurance or annuity contract, in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

2. Knowingly making or permitting any unfair discrimination between individuals of the same actuarially supportable class and essentially the same hazard, in the amount of premium, policy fees, or rates charged for any policy or contract of accident, disability, or health insurance, in the benefits payable thereunder, in any of the terms or conditions of such contract, or in any other manner whatever.

3. For a health insurer, life insurer, or managed care provider to underwrite a policy, or refuse to issue, reissue, or renew a policy, refuse to pay a claim, cancel or otherwise terminate a policy, or increase rates based solely upon the fact that an insured or applicant who is also the proposed insured has made a claim or sought or should have sought medical or psychological treatment in the past for abuse, protection from abuse, or shelter from abuse, or that a claim was caused in the past by, or might occur as a result of, any future assault, battery, or sexual assault by a family or household member upon another family or household member as defined in s. 741.30(1)(b). An insurer may refuse to underwrite, issue, or renew a policy based on the applicant's medical condition, but shall not consider whether such condition was caused by an act of abuse. For purposes of this section, the term "abuse" means the occurrence of one or more of the following acts:

a. Attempting or committing assault, battery, sexual assault, or sexual battery;

b. Placing another in fear of imminent serious bodily injury by physical menace;

c. False imprisonment;

d. Physically or sexually abusing a minor child; or

e. An act of domestic violence as defined in s. 741.28.

Section 9. This act shall take effect July 1, 1995, and shall apply to offenses committed on or after that date.

And the title is amended as follows:

In title, on page 14, strike all of lines 1-23 and insert: An act relating to domestic violence; creating s. 90.5036, F.S.; providing for confidentiality under the Florida Evidence Code of communications between a domestic violence advocate and a victim; amending s. 415.605, F.S.; requiring domestic violence centers applying for certification to file with the Department of Health and Rehabilitative Services a list of persons who provide services at the center who may claim a privilege to refuse to disclose such communications; amending s. 381.0038, F.S.; requiring the acquired immune deficiency syndrome program to contain certain additional information related to domestic violence; amending s. 415.603, F.S.; clarifying duties of the Department of Health and Rehabilitative Services with respect to domestic violence centers; requiring the department to promote involvement of certified domestic violence centers under certain circumstances; revising funding of a certain statewide association with respect to domestic violence; amending s. 415.605, F.S.; providing additional duties of domestic violence centers; creating s. 455.222, F.S.; requiring certain licensing boards to require special education on domestic violence for certain licensees; providing criteria; providing procedures; providing penalties; requiring certain licensing boards to report to the Legislature; amending s. 455.227, F.S.; providing for disciplining licensees for failing to comply with certain educational requirements related to domestic violence; amending s. 626.9541, F.S.; specifying that health insurers, life insurers or managed-care providers who engage in certain activities relating to domestic violence are engaging in an unfair practice or act; defining the term "abuse"; providing for award of attorney's fees and damages under certain circumstances;

On motions by Senator Myers, the Senate concurred in **House Amendments 1** and **2**; concurred in **House Amendment 3** as amended and requested the House to concur in the Senate amendment to the House amendment.

CS for SB 502 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 510 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 510—A bill to be entitled An act relating to transportation; amending s. 20.23, F.S.; transferring the supervision of motor carrier compliance and safety to the Assistant Secretary for District Operations of the Department of Transportation; amending s. 163.3164, F.S.; defining the term "transportation corridor management"; amending s. 163.3177, F.S.; authorizing the designation of transportation corridors in local government comprehensive plans; authorizing the adoption of transportation corridor management ordinances; amending s. 186.021, F.S.; providing that the short-range component of the Florida Transportation Plan and the annual performance report serve as the agency strategic plan for the Department of Transportation; amending s. 206.46, F.S.; providing for a percentage of state transportation tax revenues deposited in the State Transportation Trust Fund to be transferred to the Right-of-Way Acquisition and Bridge Construction Trust Fund for certain purposes; amending s. 206.47, F.S.; removing the requirement that certain maintenance tasks be limited to that which is necessary for the safe and efficient operation of roads; amending s. 255.552, F.S.; exempting certain structures from the asbestos program; amending s. 255.5535, F.S.; exempting structures acquired for transportation purposes from an asbestos survey if such structures are demolished in accordance with certain guidelines and an asbestos survey is performed to state guidelines; amending s. 255.557, F.S.; clarifying that asbestos-containing material is identified by a survey required by s. 255.553, F.S.; amending s. 311.09, F.S.; requiring the Florida Seaport Mission Plan to be consistent with the goals of the Florida Transportation Plan; requiring submission of the Florida Seaport Mission Plan by February 1 of each year; clarifying that the recipient port pays for administrative costs upon execution of a joint participation agreement with the department; amending s. 316.0755, F.S.; requiring pedestrian indicators to conform to the Manual on Uniform Traffic Devices; amending s. 316.079, F.S.; requiring a driver of a vehicle on the public roadways to yield to an escort vehicle and accompanying flagperson; creating s. 316.08, F.S.; establishing requirements of flagpersons; amending s. 330.30, F.S.; exempting helistops used by mosquito control or emergency services from state airport licensing requirements; amending s. 332.006, F.S.; requiring the statewide aviation system plan to be consistent with the goals of the Florida Transportation Plan; amending s. 332.007, F.S.; authorizing the department to fund the federal portion of an aviation project upon assurance of repayment; repealing s. 332.008, F.S., relating to the Florida Aviation Advisory Council; repealing s. 334.22, F.S., relating to private transportation facilities; amending s. 334.30, F.S.; authorizing the department to enter into agreements for the building, operation, ownership, or financing of transportation facilities; deleting a provision that has had its effect; amending s. 335.02, F.S.; authorizing the department to establish lane standards on the State Highway System; repealing s. 335.035, F.S., relating to completion of the interstate highway system; repealing s. 335.20, F.S., the Local Government Transportation Assistance Act; amending s. 337.107, F.S.; including demolition and removal of improvements and asbestos-abatement services as right-of-way services; amending s. 337.11, F.S.; authorizing a major bridge or rail corridor project as a design-build project; revising requirements for design-build procedures; authorizing the department to contract with an electric utility without competitive bidding; amending s. 337.251, F.S.; increasing the time period for leases by the department to certain public agencies or private entities; creating s. 316.0741, F.S.; providing a definition of "high occupancy vehicle lane"; providing for a traffic control device to indicate the number of occupants required to be in a vehicle for lawful use of the HOV lane and the hours of designation; providing a penalty; amending s. 322.27, F.S.; providing that a violation of s. 316.0741 would not result in points assessed on a driver's license; amending s. 337.408, F.S.; deleting unnecessary language; creating s. 337.409, F.S.; providing a penalty for damaging or tampering with a bench or transit shelter; amending s. 479.11, F.S.; revising language relating to prohibited signs; amending s. 479.16, F.S.; exempting signs placed on benches, transit shelters, or waste receptacles from the provisions of ch. 479; creating s. 335.041, F.S.; authorizing tranfer of roads between jurisdictions; providing criteria; repealing ss. 335.04 and 335.042, F.S.; deleting a reporting requirement; amending s. 337.243, F.S.; providing for notice of land use changes in transportation corridors designated in local

government comprehensive plans; amending s. 337.273, F.S.; providing for the designation and management of transportation corridors in local government comprehensive plans to be made consistent with growth management requirements and requirements for local transportation corridor management ordinances; amending s. 337.276, F.S.; authorizing the Division of Bond Finance of the State Board of Administration to issue state bonds to finance state bridge construction; amending s. 337.406, F.S.; authorizing local governmental entities to initiate enforcement action for a violation occurring on a right-of-way; amending s. 338.001, F.S.; requiring the Florida Intrastate Highway System Plan to be consistent with the goals of the Florida Transportation Plan; repealing s. 338.13, F.S., relating to the termination of ferry operations; amending s. 338.2275, F.S.; removing the references to cost amounts of turnpike projects; requiring project cost amounts to be reported to the Legislature annually; authorizing the Suncoast Parkway, Project 2; amending s. 338.2276, F.S., relating to the Western Beltway turnpike project; revising a cross-reference to conform to changes made in the act; amending s. 338.235, F.S.; authorizing the department to secure contracts for services on the turnpike by the competitive bid process; amending s. 338.239, F.S.; limiting the reimbursement of the expenses of highway patrol services on the turnpike mainline; amending s. 338.251, F.S.; authorizing repayments to the Toll Facilities Revolving Trust Fund by the Orlando-Orange County Expressway Authority to be appropriated to the Seminole County Expressway Authority; repealing s. 339.135(8), F.S., relating to the department's annual performance monitoring report; repealing s. 339.149, F.S., relating to periodic audits; amending s. 339.155, F.S.; providing that the Florida Transportation Plan creates a policy framework for other department plans; providing for a long-range and short-range component; establishing an annual performance report; repealing the State Transportation Improvement Program; amending s. 339.175, F.S.; authorizing an alternate representative from each M.P.O. to vote in absence of a representative; authorizing the Metropolitan Planning Organization Advisory Council to employ an executive director and other staff; assigning the council to the Office of the Secretary for fiscal and accountability purposes; amending s. 341.041, F.S.; requiring the statewide transit plan to be consistent with the goals of the Florida Transportation Plan; amending s. 341.051, F.S.; authorizing local governments to receive federal grants or apportionments for commuter-assistance projects; authorizing the department to expend state funds on commuter-assistance projects; authorizing the department to fund a percentage of the nonfederal share of a local commuter-assistance project; authorizing the department to fund a statewide or multiple county commuter-assistance project; amending s. 341.302, F.S.; requiring the statewide rail system plan to be consistent with the goals of the Florida Transportation Plan; amending s. 348.754, F.S.; authorizing the Orlando-Orange County Expressway Authority to acquire by donation or otherwise certain property or options thereof and to make partnerships providing for participation in ownership and revenues in order to facilitate financing and constructing the Western Beltway; amending s. 348.7544, F.S.; authorizing the authority to own that portion of the Western Beltway known as the Northwest Beltway Part A; amending s. 348.7545, F.S.; authorizing the authority to exercise its condemnation power to construct, finance, operate, own, and maintain the Western Beltway Part C; amending s. 348.760, F.S.; authorizing the authority to make partnerships; providing powers of the authority with respect to implementing part VIII of ch. 348, F.S.; amending s. 479.07, F.S.; providing an exception to the requirements for sign permits; providing for a permit to be reinstated; amending s. 479.105, F.S.; providing criteria for permitting nonconforming signs; amending s 843.08, F.S.; providing a criminal penalty for impersonating an officer of the Department of Transportation; repealing ss. 7 and 8 of ch. 93-164, Laws of Florida, and s. 48 of ch. 94-237, Laws of Florida; abrogating the repeal and review of s. 334.046, F.S., relating to the department's program objectives; repealing s. 78 of ch. 94-237, Laws of Florida, which appropriates money for a seaports enhancement grant program; designating a bridge as the "W.G. Hardy, Sr. Bridge"; directing the Department of Transportation to erect markers; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 37, between lines 23 and 24, insert:

Section 35. Subsection (7) is added to section 337.14, Florida Statutes, to read:

337.14 Application for qualification; certificate of qualification; restrictions; request for hearing.—

(7) No "contractor" as defined in s. 337.165(1)(d) or his "affiliate" as defined in s. 337.165(1)(a) qualified with the department under this section may also qualify under s. 337.105 or s. 287.055 to provide construction, engineering, and inspection services to the department. This limitation shall not apply to any design-build prequalification under s. 337.11(7).

Section 36. Subsection (4) of section 337.221, Florida Statutes, 1994 Supplement, is amended to read:

337.221 Claims settlement process.—It is the intent of the Legislature that a process be created to resolve contractual claims between the department and providers of goods and services and that the department pursue the recovery of additional costs resulting from substandard goods and services provided to the department.

(4) The recovery for a claim not resolved through the department's claim settlement process shall only be pursued through state arbitration board or circuit court proceedings, as provided by law. ~~Failure by the department to resolve a claim within 90 days after submission of the claim constitutes a denial of the claim. However, no circuit court proceedings on such claim may be filed until acceptance of the project by the department.~~

Section 37. The deletion of the language in section 337.221(4), Florida Statutes, 1994 Supplement, shall not be construed by any tribunal as evidence of legislative intent to allow such circuit court proceedings prior to acceptance of the project. It is the intent of the Legislature to return this area of the law to the same status which existed prior to May 25, 1994, the date of the enactment of the deleted language.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 4, line 20, after the semicolon (;) insert: amending s. 337.14, F.S.; prohibiting certain contractors or affiliates from providing construction, engineering and inspection services to the Department of Transportation; providing an exception; amending s. 337.221, F.S.; deleting language with respect to the claims settlement process; providing Legislative intent;

House Amendment 2 (with Title Amendment)—On page 20, between lines 9 and 10, insert:

Section 15. Section 330.36, Florida Statutes, is amended to read:

330.36 Prohibition against county or municipal licensing of airports; regulation of seaplane landings.—

(1) No county or municipality of this state shall license airports or control their location except by zoning requirements. The determination of suitable sites and standards of safety for airports shall be in accordance with the provisions of this chapter. Nothing in this chapter shall be interpreted as prohibiting a county or municipality from issuing occupational licenses to operators of airports.

(2) A municipality may prohibit or otherwise regulate, *for specified public health and safety purposes,* the landing of seaplanes in~~, over,~~ and upon any public waters of the state which ~~waters~~ are located within the limits or jurisdiction of, or bordering on, the municipality.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 2, line 25, after the semicolon (;) insert: amending s. 330.36, F.S.; revising a provision that authorizes municipalities to regulate seaplane landings;

House Amendment 4 (with Title Amendment)—On page 65, between lines 12 and 13, insert:

Section 49. Paragraph (d) of subsection (4) of section 341.3025, Florida Statutes, is redesignated as paragraph (e) and a new paragraph (d) is added to subsection (4) of said section to read:

341.3025 Multicounty public rail system fares and enforcement.—

(4)

(d) Any person who fails to appear or otherwise properly respond to a citation issued under this section shall also be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect shall be provided at the time such citation is issued.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 6, line 13, after the semicolon (;) insert: amending s. 341.3025, F.S.; providing a penalty for failure to properly respond to a citation with respect to the law governing multicounty public rail system fares;

House Amendment 5 (with Title Amendment)—On page 37, between lines 23 and 24, insert:

Section 35. Paragraph (d) of subsection (1) of section 336.025, Florida Statutes, 1994 Supplement, is amended to read:

336.025 County transportation system; levy of local option gas tax on motor fuel and special fuel.—

(1)

(d) If an interlocal agreement entered into under this section does not provide for *automatic adjustments or* periodic review by the local governmental entities of the method of distribution of local option gas tax revenues, the parties to the agreement shall review and hold public hearings on the terms of the agreement at least every 2 years. ~~If no cooperative review of an agreement has been conducted within 2 years prior to January 1, 1994, the parties to the agreement must hold public hearings on the agreement prior to January 1, 1995.~~

(Renumber subsequent sections.)

And the title is amended as follows:

On page 4, line 20, after the semicolon (;) insert: amending s. 336.025, F.S.; providing for reference to automatic adjustment with respect to interlocal agreement in the distribution of local gas tax revenues; deleting obsolete language;

House Amendment 6 (with Title Amendment)—On page 18, between lines 13 and 14, insert:

Section 11. Section 315.17, Florida Statutes, is created to read:

315.17 Notwithstanding any provision of law to the contrary, a lease entered into by a county with another governmental entity for the benefit of a seaport created or authorized under the provisions of s. 125.01 shall not be subject to the 30-year lease term limitation of s. 125.031.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 2, line 15, after "department;" insert: creating s. 315.17, F.S.; waiving a term limitation for certain leases entered into by a county for the benefit of a seaport created or authorized under s. 125.01, F.S.;

On motions by Senator Beard, the Senate concurred in the House amendments.

CS for SB 510 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for CS for SB 536 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 536—A bill to be entitled An act relating to administrative rules; creating s. 11.0755, F.S.; prescribing requirements that must be considered before an agency may be given rulemaking authority by the Legislature; amending s. 11.60, F.S.; requiring reports of the Administrative Procedures Committee to contain certain information; prescribing duties of the committee; amending s. 120.52, F.S.; redefining the terms "agency" and "invalid exercise of delegated legislative authority" and defining the terms "small county" and "small city" for purposes of the Administrative Procedure Act; 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. 120.535, F.S.; providing for assessment of costs and attorney's fees against an agency that fails to prove that rulemaking was not feasible or not practicable; amending s. 120.54, F.S.; providing for notice of development of proposed rules; authorizing public workshops; requiring additional information to be given in notices of proposed rules; 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 review their existing rules and report to the Governor and Legislature; 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 a hearing officer; defining good cause; creating s. 120.562, F.S.; providing for attorney's fees and costs; providing for burden of proof in proving validity of a rule; amending s. 120.57, F.S.; modifying procedures in formal proceedings affecting a party's substantial interest; amending s. 120.59, F.S.; prohibiting agencies from recovering costs and attorney's fees; amending s. 120.68, F.S.; providing for consolidation of administrative proceedings on appeal; providing grounds for setting aside agency action; prohibiting a court from substituting its judgment for that of the hearing officer as to findings of fact; providing for legislative review of ch. 120, F.S.; providing for severability; providing effective dates.

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

Section 1. Paragraphs (f) and (k) of subsection (2) of section 11.60, Florida Statutes, are amended, paragraphs (l) and (m) are added to said subsection, and subsection (4) is added to said section, to read:

11.60 Administrative Procedures Committee; creation; membership; powers; duties.—

(2) The committee shall:

(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 recommended 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.*

(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, *not to exceed 60 days,* 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.

(m) Establish measurement criteria to evaluate whether agencies are complying with the delegation of legislative authority in adopting and implementing rules.

(4) The committee shall undertake and maintain a systematic and continuous review of statutes that authorize agencies to adopt rules and shall make recommendations to the appropriate standing committees of the Senate and the House of Representatives as to the advisability of considering changes to the delegated legislative authority to adopt rules in specific circumstances. The annual report submitted pursuant to paragraph (2)(f) shall include a schedule for the required systematic review of existing statutes, a summary of the status of this review, and any recommendations provided to the standing committees during the preceding year.

Section 2. Subsections (1), (8), and (16) of section 120.52, Florida Statutes, are amended, and subsections (17) and (18) are added to said section, to read:

120.52 Definitions.—As used in this act:

(1) "Agency" means:

(a) The Governor in the exercise of all executive powers other than those derived from the constitution.

(b) Each other state officer and each state department, departmental unit described in s. 20.04, commission, regional planning agency, board, *multicounty special* district *with a majority of its governing board comprised of nonelected persons*, and authority, including, but not limited to, *the Commission on Ethics and the Game and Fresh Water Fish Commission when acting pursuant to statutory authority derived from the Legislature, and* those *entities* described in chapters 163, 298, 373, 380, and 582 and s. 186.504, except any legal entity or agency created in whole or in part pursuant to chapter 361, part II, *or any legal or administrative entity created by an interlocal agreement pursuant to s. 163.01(7), unless any party to such agreement is otherwise an agency as defined in this subsection.*

(c) Each other unit of government in the state, including counties and municipalities, to the extent they are expressly made subject to this act by general or special law or existing judicial decisions.

A judge of compensation claims shall not, in the adjudication of workers' compensation claims, be considered an agency or part of an agency for the purposes of this act.

(8) "Invalid exercise of delegated legislative authority" means action which goes beyond the powers, functions, and duties delegated by the Legislature. A proposed or existing rule is an invalid exercise of delegated legislative authority if any one ~~or more~~ of the following *applies* ~~apply~~:

(a) The agency has materially failed to follow the applicable rulemaking procedures *or requirements* set forth in s. 120.54;

(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 is arbitrary or capricious~~;~~.

(f) The rule is not supported by competent substantial evidence; or

(g) The rule imposes excessive regulatory costs as set forth in s. 120.54(2), which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

(16) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the ~~organization,~~ procedure~~,~~ or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule. The term does not include:

(a) Internal management memoranda which do not affect either the private interests of any person or any plan or procedure important to the public and which have no application outside the agency issuing the memorandum.

(b) Legal memoranda or opinions issued to an agency by the Attorney General or agency legal opinions prior to their use in connection with an agency action.

(c) The preparation or modification of:

1. Agency budgets.

2. Statements, memoranda, or instructions to state agencies issued by the Comptroller as chief fiscal officer of the state and relating or pertaining to claims for payment submitted by state agencies to the Comptroller.

3. Contractual provisions reached as a result of collective bargaining.

4. Agricultural marketing orders under chapter 573 or chapter 601.

5. Curricula by an educational unit.

(d) Agency action which has the effect of altering established hunting or fishing seasons, or altering established annual harvest limits for saltwater fishing if the procedure for altering such harvest limits is set out by rule of the Marine Fisheries Commission, provided such action is adequately noticed in the area affected through publishing in a newspaper of general circulation or through notice by broadcasting in an electronic media.

(e) Any tests, test scoring criteria, or testing procedures relating to student assessment which are developed or administered by the Department of Education pursuant to s. 229.57, s. 232.245, s. 232.246, or s. 232.247 or any other statewide educational test required by law.

(f) Law enforcement policies and procedures of the Department of Law Enforcement which relate to:

1. The collection, management, and dissemination of active criminal intelligence information and active criminal investigative information; management of criminal investigations; and management of undercover investigations and the selection, assignment, and fictitious identity of undercover personnel.

2. The recruitment, management, identity, and remuneration of confidential informants or sources.

3. Surveillance techniques, the selection of surveillance personnel, and electronic surveillance including court-ordered and consensual interceptions of communication conducted pursuant to chapter 934.

4. The safety and release of hostages.

5. The provision of security and protection to public figures.

6. The protection of witnesses.

(g) The enlistment, organization, administration, equipment, maintenance, training, and discipline of the militia, National Guard, Organized Militia, and unorganized militia, as provided in s. 2, Art. X of the State Constitution.

(17) "Small county" means any county that has an unincarcerated population of 50,000 or less according to the most recent decennial census.

(18) "Small city" means any municipality that has an unincarcerated population of 1,000 or less according to the most recent decennial census.

Section 3. Subsection (1), paragraph (a) of subsection (2), and subsection (6) of section 120.53, Florida Statutes, are amended to read:

120.53 Adoption of rules of procedure and public inspection.—

(1)*(a) The Florida Administrative Code shall contain the address and telephone number of the executive offices of each agency. Each agency must provide any person who makes a request with a written description of its organization, and the general course of its operations.* ~~In addition to other requirements imposed by law, each agency shall:~~

~~(a) Adopt as a rule a description of its organization stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests.~~

~~(b) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures.~~

~~(c) Adopt rules of procedure appropriate for the presentation of arguments concerning issues of law or policy, and for the presentation of evidence on any pertinent fact that may be in dispute.~~

(b)~~(d)~~ *In its model rules, the Administration Commission shall* adopt rules for the scheduling of meetings, hearings, and workshops, one of which shall be that an agenda shall be prepared by *an* ~~the~~ agency in time to ensure that a copy of the agenda may be received at least 7 days before the event by any person in the state who requests a copy and who pays the reasonable cost of the copy. The agenda shall contain the items to be considered in the order of presentation. After the agenda has been made available change shall be only for good cause, as determined by the person designated to preside, and stated in the record. Notification of such change shall be at the earliest practicable time. The agenda for a special meeting of a district school board under authority of s. 230.16 shall be prepared upon the calling of the meeting, but not less than 48 hours prior to such meeting. In addition, each agency shall give notice of meetings, hearings, and workshops in the same manner as that prescribed for rulemaking in s. 120.54(1), except that the notice requirement does not apply to emergency meetings. The notice shall include a statement of the general subject matter to be considered and shall be given not less than 7 days before the event.

(2)(a) Each agency shall make available for public inspection and copying, at no more than cost:

1. All rules formulated, adopted, or used by the agency in the discharge of its functions.

2. All agency orders.

3. A current subject-matter index, identifying for the public any rule or order as specified in this subparagraph. In lieu of the requirement for making available for public inspection and copying a hierarchical subject-matter index of its orders, an agency may maintain and make available for public use an electronic data base of its orders that allows users to research and retrieve the full texts of agency orders by devising an ad hoc indexing system employing any logical search terms in common usage which are composed by the user and which are contained in the orders of the agency. The agency orders that must be indexed, unless excluded under paragraph (c) or paragraph (d), include:

a. Each final agency order resulting from a proceeding under s. 120.57(1) or (2) *or s. 120.573*;

b. Each final agency order rendered pursuant to s. 120.57(3) which contains a statement of agency policy that may be the basis of future agency decisions or that may otherwise contain a statement of precedential value;

c. Each declaratory statement issued by an agency; and

d. Each final order resulting from a proceeding under ~~s. 120.535,~~ s. 120.54(4), *s. 120.547,* ~~or~~ s. 120.56, *or s. 120.574.*

4. A list of all final orders rendered pursuant to s. 120.57(3) which have been excluded from the indexing requirement of this section, with the approval of the Department of State, because they do not contain statements of agency policy or statements of precedential value. The list must include the name of the parties to the proceeding and the number assigned to the final order.

5. All orders listed pursuant to subparagraph 4.

(6) *The Administration Commission shall adopt rules pursuant to s. 120.54(10) for use by* each state agency *that provides*~~, as defined in s. 216.011, shall adopt rules providing~~ a procedure for conducting meetings, hearings, and workshops, and for taking evidence, testimony, and argument at such meetings, hearings, and workshops, by means of communications media technology. The rules shall provide that all evidence, testimony, and argument presented shall be afforded equal consideration, regardless of the method of communication. If a meeting, hearing, or workshop is to be conducted by means of communications media technology, or if attendance may be provided by such means, the notice shall so state. The notice for meetings, hearings, and workshops utilizing communications media technology shall state how persons interested in attending may do so and shall name locations, if any, where communications media technology facilities will be available. Nothing in this subsection shall be construed to diminish the right to inspect public records under chapter 119. Limiting points of access to meetings, hearings, and workshops subject to the provisions of s. 286.011 to places not normally open to the public shall be presumed to violate the right of access of the public; and any official action taken under such circumstances is void and of no effect. Other laws relating to public meetings, hearings, and workshops, including penal and remedial provisions, shall apply to meetings, hearings, and workshops conducted by means of communications media technology and shall be liberally construed in their application to such meetings, hearings, and workshops.

Section 4. 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.

(2) By July 1, 1996, each agency shall provide to the Joint Administrative Procedures Committee a listing of each rule, or portion thereof, adopted by that agency before July 1, 1995, 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. The Joint Administrative Procedures Committee shall combine the lists and provide the cumulative listing to the President of the Senate and the Speaker of the House of Representatives. The Legislature shall, at the next regular session, consider whether specific legislation authorizing the identified rules, or portions thereof, should be enacted. By January 1, 1998, 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 for which authorizing legislation does not exist. By February 1, 1998, 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, 1998, 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 rulemaking authority permitted by this section. Not later than 30 days after the date of filing the petition if the agency is headed by an individual, or not later than 45 days if the agency is headed by a collegial body, 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, 1995, shall be based on rulemaking authority no broader than that permitted by this section. A rule adopted before July 1, 1995, may not be challenged before July 1, 1998, on the grounds that it exceeds the rulemaking authority set forth in subsection (1), but such rules may be challenged pursuant to other provisions of this chapter.

(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 5. Section 120 535, Florida Statutes, as amended by chapter 92-166, Laws of Florida, is hereby repealed.

Section 6. Section 120.54, Florida Statutes, is amended to read:

120.54 Rulemaking; adoption procedures.—

(1)(a) At least 21 days before providing notice of a proposed rule as required by paragraphs (d) and (e), an agency must provide notice of the development of proposed rules by publication of a notice of rule development in the Florida Administrative Weekly. The notice of rule development must indicate the subject area to be addressed by rule development; provide a short, plain explanation of the purpose and effect of the rule development; cite the specific legal authority for rule development; and include the preliminary text of proposed rules if available.

(b) An agency may hold public workshops for purposes of rule development. An agency must hold public workshops, including workshops in

various regions of the state, for purposes of rule development if requested in writing by any affected person, unless the agency head explains in writing why a workshop is unnecessary. When a workshop or public hearing is held, the agency must ensure that the persons responsible for preparing the proposed rule are available to explain the agency's proposal and to respond to questions or comments regarding the rule being developed. The workshop may be facilitated or mediated by a neutral third person, or the agency may employ other types of dispute resolution alternatives for the workshop that are appropriate for rule development. Notice of a rule development workshop must be given by publication in the Florida Administrative Weekly not less than 21 days before the date on which the workshop is scheduled to be held, and the notice must indicate the subject area to be addressed, the agency contact person, and the place, date, and time of the workshop.

(c)1. An agency may use negotiated rulemaking in developing and adopting rules. The agency should consider the use of negotiated rulemaking when complex rules are being drafted or strong opposition to the rules is anticipated. The agency should consider, but not be limited to, whether a balanced committee of interested persons who will bargain in good faith can be assembled, whether the agency is willing to support the work of the negotiating committee, and whether the agency can use the group consensus as the basis for its proposed rule. Negotiated rulemaking uses a committee of designated representatives to draft a mutually acceptable proposed rule.

2. An agency that chooses to use negotiated rulemaking must publish in the Florida Administrative Weekly a notice of negotiated rulemaking that includes a listing of the representative groups that will be invited to participate in the negotiated rulemaking process. Any person who believes that his or her interest is not adequately represented may apply to participate within 30 days of the notice. All meetings of the negotiating committee shall be noticed and open to the public pursuant to the provisions of this chapter. The negotiating committee shall be chaired by a neutral facilitator or mediator.

(d)~~(1)~~ Prior to the adoption, amendment, or repeal of any rule not described in subsection (9), an agency, *upon approval of the agency head,* 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 include a summary of the agency's statement of the estimated regulatory costs, based on the factors set forth in paragraph (2)(c), and a statement that any person who wishes to provide the agency with information regarding the statement of estimated regulatory costs, or to provide any proposal for a lower cost regulatory alternative as provided in paragraph (12)(b), must do so in writing within 21 days of the notice. The notice must state the procedure for requesting a public hearing on the proposed rule.*

(e)~~(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.

(f)~~(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. Notice of rule development shall indicate the subject area which will be addressed by rule development, provide a short plain explanation of the purpose and effect of the rule development, the specific legal authority for rule development, and the preliminary text of proposed rules if available.~~

~~(d) An agency may hold a public workshop for purposes of rule development. If an agency provides notice of rule development under paragraph (1)(c), the agency shall hold a public workshop for purposes of rule development if requested by any affected person. Notwithstanding the provisions of s. 120.53(1)(d) or any other provision of law, notice of a rule development workshop shall be by publication in the Florida Administrative Weekly not less than 14 days prior to the date on which the workshop is scheduled to be held and shall indicate the subject area which will be addressed, the agency contact person, and the place, date, and time of the workshop.~~

~~(e) If an agency provides notice of rule development under paragraph (1)(c), and an economic impact statement is prepared pursuant to paragraph (2)(b), prior to notice of proposed rules under paragraphs (1)(a) and (b), the agency shall make a draft copy of the economic impact statement available to any person who requests a copy of the statement.~~

(2)(a) *Each agency, before the adoption, amendment, or repeal of a rule, must consider the impact of the rule on small businesses as defined in s. 288.703 and the impact of the rule on small counties or small cities as defined in s. 120.52. Whenever practicable, an agency must tier its rules to reduce disproportionate impacts on small businesses and on small counties or small cities to avoid regulating small businesses, small counties, or small cities that do not contribute significantly to the problem the rule is designed to address. An agency may define the term "small business" to include businesses employing more than 100 persons, may define the term "small county" to include those with populations greater than 50,000, and may define the term "small city" to include those with populations more than 1,000, if it finds that such a definition is necessary to adapt a rule to the needs and problems of small businesses, small counties, or small cities. The agency shall consider each of the following methods for reducing the impact of the proposed rule on small businesses, on small counties, and on small cities or any combination of these entities:*

1. Establishing less stringent compliance or reporting requirements in the rule.

2. Establishing less stringent schedules or deadlines in the rule for compliance or reporting requirements.

3. Consolidating or simplifying the rule's compliance or reporting requirements.

4. Establishing performance standards or best-management practices to replace design or operational standards in the rule.

5. Exempting small businesses, small counties, or small cities 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 *shall prepare a statement of estimated regulatory costs of the proposed rule, except in the case of a procedural rule, or a rule adopted pursuant to a federal program where such rule is identical to or no more restrictive than the federal law or regulation being adopted or implemented by the agency.* ~~may provide information on its proposed action by preparing an economic impact statement, and must prepare an economic impact statement if:~~

~~1. The agency determines that the proposed action would result in a substantial increase in costs or prices paid by consumers, individual industries, or state or local government agencies, or would result in significant adverse effects on competition, employment, investment, productivity, 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 an economic impact statement is filed with the appropriate agency by the Governor, a body corporate and politic, at least 100 people signing a request, or an organization representing at least 100 persons, or any domestic nonprofit corporation or association.~~

~~An agency's determination regarding preparation of an economic impact statement pursuant to subparagraph (2)(b)1. shall not be subject to challenge. If an economic impact statement is prepared pursuant to paragraph (2)(b), at least 14 days prior to any public hearing on a proposed rule held pursuant to subsection (3), the agency shall make a draft copy of the economic impact statement available to any person who requests a copy of the statement.~~

(c) *All statements of estimated regulatory costs* ~~The economic impact statement~~ must include:

1. A good-faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of what types of individuals the rule is likely to affect;

2.~~1.~~ *A good-faith* ~~An~~ estimate of the cost to the agency, and to any other state or local government entities, of implementing and enforcing the proposed *rule* ~~action, including the estimated amount of paperwork~~, and any anticipated effect on state or local revenues;

3.~~2.~~ *A good-faith estimate of the transactional costs likely to be incurred by individuals and entities, including local governments, required to comply with the requirements of the rule. As used in this subparagraph, "transactional costs" are direct costs that are readily ascertainable based on standard business practice, and include, but are not limited to, filing fees, the cost of obtaining any licenses, the cost of equipment or procedures required to be installed or used in complying with the rule, additional operating costs incurred, and the cost of monitoring and reporting;* ~~An estimate of the cost or the economic benefit to all persons directly affected by the proposed action;~~

~~3. An estimate of the impact of the proposed action on competition and the open market for employment, if applicable;~~

4. 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 or small cities as defined in s. 120.52*;

5. *Any additional information that the agency determines may be useful in informing the public of the costs or benefits of complying with the proposed rule* ~~A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of not adopting the rule~~; *and*

~~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;~~

6.~~7.~~ A *good-faith* description of any reasonable alternative methods, *including any proposals submitted under paragraph (12)(b)* ~~where applicable~~, for achieving the purpose of the proposed rule which were considered by the agency, and a statement of the reasons for rejecting those alternatives in favor of the proposed rule.~~; and~~

~~8. A detailed statement of the data and methodology used in making the estimates required by this paragraph.~~

Agency estimates may include data and information provided by persons affected by the proposed rule.

(d) *If preparation of a statement of estimated regulatory costs is required, failure to provide a statement of estimated regulatory costs that complies with paragraph (c) is a material error and grounds for holding a rule invalid; however,* no rule shall be declared invalid based on a challenge to the *agency's statement of estimated regulatory costs* ~~economic impact statement~~ for the rule unless*:*

1. This ~~the~~ issue is raised in an administrative proceeding within 1 year of the effective date of the rule to which the statement applies;~~.~~

2. The person challenging the statement of estimated regulatory costs has ~~No person shall have standing to challenge an agency rule, based upon an economic impact statement or lack thereof, unless that person requested preparation of an economic impact statement under subparagraph (2)(b)2. and~~ provided the agency with information sufficient to make the agency aware of specific concerns regarding the *estimated regulatory costs* ~~economic impact~~ of the proposed rule, ~~by~~ either *by participating* ~~participation~~ in a public workshop *or*~~,~~ public hearing, or by *submitting* ~~submission of~~ written comments~~,~~ regarding the *estimated regulatory costs of the proposed rule as requested pursuant to paragraph (1)(d)* ~~rule~~*; and*~~.~~

3. The challenged statements in the statement of estimated regulatory costs are material to the person's substantial interests. ~~The grounds for invalidation of a rule based upon a challenge to the economic impact statement for the rule are limited to an agency's failure to adhere to the procedure for preparation of an economic impact statement provided by this section, or an agency's failure to consider information submitted to the agency regarding specific concerns about the economic impact of a proposed rule when such failure substantially impairs the fairness of the rulemaking proceeding.~~

(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 *of intended agency action*, 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 *the* ~~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~~.

(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)(d), within 10 days after the final public hearing is held on the proposed rule as provided in subsection (3), or, if applicable, within 20 days after the date of publication of the notice required in subsection (13).* 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. *Any person who is substantially affected by a change in the proposed rule may seek a determination of the validity of such change. Any person not substantially affected by the proposed rule as initially noticed, but who is substantially affected by the rule as a result of a change, may challenge any provision of the rule and is not limited to challenging the change to the proposed 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 *paragraph (1)(d), until 21 days after the notice required by* subsection *(13), until 14 days after the public hearing,* ~~(1)~~ 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 rulemaking 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.

(e) An agency's failure to comply with applicable rulemaking procedures or requirements in this section shall be presumed to be material; however, the agency may rebut this presumption by demonstrating that this noncompliance is not material, if the petitioner has not suffered any substantial prejudice as a result of the noncompliance.

(f) When any substantially affected person seeks determination of the invalidity of a proposed rule pursuant to this section, the rule is not presumed to be valid or invalid.

1. The petition shall state with particularity the objections to the proposed rule and the reasons that the rule is an invalid exercise of delegated legislative authority. The agency then has the burden to prove the validity of the rule as to the objections raised.

2. If the agency fails to prove the validity of the rule, the court or hearing officer shall declare the rule or portion of the rule invalid and a judgment or order shall be rendered against the agency for costs and reasonable attorney's fees, unless the agency demonstrates that its actions were substantially justified or special circumstances exist which would make the award unjust. If the agency prevails in the proceedings, the court or hearing officer shall award costs and reasonable attorney's fees against a party if the court or hearing officer determines that a party participated in the proceedings for an improper purpose as defined in s. 120.59(6)(d)1.

3. This paragraph is repealed on July 1, 1998. The repeal of this paragraph shall not affect petitions filed prior to that date.

(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 rulemaking record. The record must include, if applicable, copies of:*

1. All notices given for the proposed rule.

2. The statement of estimated regulatory costs for the rule.

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 subsection (11).

7. All materials filed with the Department of State under subsection (11).

8. 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 *proposed rule and each* rule adopted shall be accompanied by a reference to the specific rulemaking authority pursuant to which the rule was *proposed or* 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, 1996,* 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. *Agencies must comply with the model rules by July 1, 1997. The model rules shall establish procedures that comply with the requirements of this chapter and may provide alternative means of meeting the requirements of this chapter.* On filing with the department, the ~~appropriate~~ model rules shall be the rules of procedure for each agency subject to this act *unless the Administration Commission grants an exception to the agency under 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. ~~Agency rules adopted to comply with ss. 120.53 and 120.565 must be in substantial compliance with the model rules.~~

(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 that provide exceptions to the model rules and 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.

(11)(a) The adopting agency shall file with the committee, at least 21 days prior to the proposed adoption date, 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, *if the rule has not been changed from the rule as previously filed with the committee, or contains only technical changes,* the adopting agency shall file *a notice to that effect with the committee at least 7 days prior to filing the rule for adoption* ~~any changes in the proposed rule and the reasons 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 a 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, *along with the reasons for such change,* 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. *Paragraph (a) and* this paragraph *do* ~~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 notice of change is required to be published, the 90-day period during which a rule must be filed for adoption is extended to 21 days after the date of publication.* 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 in writing 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 in writing to all material and timely written inquiries or written comments;* ~~or~~ upon which an administrative determination is pending*; or which does not include a statement of estimated regulatory costs, if required.* 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)(e) and (f)* ~~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 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 person, county, or municipality* ~~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. *If an affected person provides an agency with a written proposal for a lower cost regulatory alternative to a proposed rule, including an alternative of not adopting any rule, which substantially accomplishes the statutory objectives, the agency must either adopt the alternative approach or provide a written explanation of its reasons for rejecting the alternative. An agency required to provide a written explanation must prepare the explanation and make it available to the person who filed a written proposal and to the public prior to filing the rule for adoption.* ~~This paragraph shall not provide a basis for challenging a rule.~~

(c) No statutory provision shall be delayed in its implementation pending an agency's adoption of implementing rules unless there is an express statutory provision prohibiting its application until the adoption of implementing rules.

(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. *If the committee notifies an agency that an objection to a rule is being considered, the agency may postpone the adoption of the rule to accommodate review of the rule by the committee. When an agency postpones adoption of a rule to accommodate review by the committee, the 90-day period for filing the rule is tolled until the committee notifies the agency that it has completed its review of the rule.*

(b) After the notice required in *paragraph* ~~subsection~~ (1)*(d)* 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. *The agency shall give notice of its decision to change a rule in the first available issue of the publication in which the original notice of rulemaking was published, and notify those persons described in paragraph (1)(e) in accordance with the requirements of that paragraph.* 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 *authorized by law and* 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.

(18) All rules should be drafted in readable language. The language is readable if:

(a) It avoids the use of obscure words and unnecessarily long or complicated constructions; and

(b) It avoids the use of unnecessary technical or specialized language that is understood only by members of particular trades or professions.

(19) No agency shall include as a condition of approval of any license any action that is based on a statement, policy, or guideline of another agency unless the former agency has expressly adopted the statement, policy, or guideline as a rule pursuant to this section or unless such action is expressly authorized or required by general law.

Section 7. The amendment of paragraphs (b), (c), and (d) of subsection (2) of section 120.54, Florida Statutes, by this act shall expire on July 1, 1998, and the text of said paragraphs shall revert to that in existence on June 30, 1995, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of said text which expire pursuant to the provisions of this act. The Statutory Revision Division of the Joint Legislative Management Committee shall include in an appropriate reviser's bill any amendments to said paragraphs which are necessary to give effect to the legislative intent expressed in this section.

Section 8. (1)(a) Notwithstanding the provisions of law concerning the repeal of rules, by October 1, 1995, each agency must submit to the Governor a list of its own rules recommended to be repealed. The Governor shall review the list of rules to be repealed and, at his discretion, may remove any rule from the list. The Governor must compile a list of rules from those submitted by the agencies to be repealed and must notice the list of the rules proposed to be repealed in the Florida Administrative Weekly. The rules may be filed for repeal with the Department of State at least 21 days after the publication of the notice in the Florida Administrative Weekly. If a person substantially affected by the rule files an objection to the repeal of a specific rule with the Governor within 21 days after the publication of the notice, then the rule is not repealed. If no objection to a specific rule is timely filed, the rule is repealed upon filing.

(b) Each rule that has been objected to under this subsection shall be submitted by the Governor to the Legislature by December 1, 1995, for review and consideration during the 1996 Regular Session. If the Legislature takes no action on a rule submitted under this subsection, the rule shall remain in effect. A rule that remains in effect pursuant to this section is not presumed valid. The agency may repeal the rule by filing a notice of repeal in the Florida Administrative Weekly listing the number of the rule to be repealed and a short statement of the purpose of the rule. If a person substantially affected by the rule does not file a challenge to the repeal of the rule pursuant to s. 120.54(4), Florida Statutes, within 21 days of the publication of the notice, the rule may be filed for repeal with the Department of State. The rule is repealed upon filing.

(c) This subsection does not affect the ability of an agency to repeal a rule that has not been submitted to the Legislature pursuant to this section.

(d) This subsection is hereby repealed on October 1, 1996.

(2) Before July 1, 1996, each agency must review its rules and file a written report with the President of the Senate, the Speaker of the House of Representatives, and the Governor. The report must identify ways to simplify and clarify rules and regulatory schemes by combining redundant and overlapping rules and by deleting obsolete rules. The report must identify rules that are appropriate for variances, waivers, or special circumstances consistent with the directives of the Legislature. The report also must identify rules that the agency determines should be reviewed by the Legislature for a clarification of legislative authority or intent and shall evaluate the agency's existing rules with respect to any invalid exercise of delegated legislative authority as defined in s. 120.52(8), Florida Statutes, and the requirements of s. 120.547, Florida Statutes.

Section 9. Subsection (1) and paragraph (a) of subsection (2) of section 120.545, Florida Statutes, are amended, and subsection (9) is added to said section, to read:

120.545 Committee review of agency rules.—

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.54(11)*(b)* ~~(a)~~, and its accompanying material, and each emergency rule, and may examine any existing rule, for the purpose of determining whether:

(a) The rule is an invalid exercise of delegated legislative authority.

(b) The statutory authority for the rule has been repealed.

(c) The rule reiterates or paraphrases statutory material.

(d) The rule is in proper form.

(e) The notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule.

(f) *A* ~~An economic impact~~ statement was prepared that informs the public of the *estimated regulatory costs* ~~economic effect of the rule, if such statement is required pursuant to paragraph (2)(b) or is requested by the committee~~.

(g) The rule is consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements.

(h) The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law which the rule implements.

(i) The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected by the rule.

(j) The rule could be made less complex or more easily comprehensible to the general public.

(k) The rule *imposes the lowest cost on those regulated while still substantially accomplishing statutory objectives* ~~reflects the approach to the regulatory objective involving the lowest net cost to society to the degree consistent with the provisions of law which the rule implements~~.

(l) The rule will require additional appropriations.

(m) If the rule is an emergency rule, there exists an emergency justifying the promulgation of such rule, whether the agency has exceeded the scope of its statutory authority, and whether the rule was promulgated in compliance with the requirements and limitations of s. 120.54(9).

The committee may request from an agency such information as is reasonably necessary for examination of a rule as required by this subsection. The committee shall consult with legislative standing committees with jurisdiction over the subject areas pertinent to any rule examined regarding legislative authority for the rule. If the committee objects to an emergency rule or a proposed or existing rule, it shall, within 5 days of the objection, certify that fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity. The committee shall notify the Speaker of the House of Representatives and the President of the Senate of any objection to an agency rule concurrent with certification of that fact to the agency. Such notice shall include a copy of the rule and the statement detailing the committee's objections to the rule.

(2) Within 30 days of receipt of the objection, if the agency is headed by an individual, or within 45 days of receipt of the objection, if the agency is headed by a collegial body, the agency shall:

(c) If the rule is either an existing or a proposed rule and the objection is to the *statement of estimated regulatory costs* ~~economic impact statement~~:

1. Prepare a corrected *statement of estimated regulatory costs* ~~economic impact statement~~, give notice of the availability of the corrected *statement of estimated regulatory costs* ~~economic impact statement~~ in the first available issue of the Florida Administrative Weekly, and file *a copy* ~~copies~~ of the corrected statement with the committee ~~and the Department of State~~; or

2. Notify the committee that it refuses to prepare a corrected *statement of estimated regulatory costs* ~~economic impact statement~~.

(9)(a) If the committee objects to a proposed or existing rule, or portion thereof, and the agency fails to initiate administrative action to modify, amend, withdraw, or repeal the rule consistent with the objection within 60 days, or thereafter fails to proceed in good faith to complete such action, the committee may submit to the President of the Senate and the Speaker of the House of Representatives a recommendation that legislation be introduced to modify or suspend the adoption of the proposed rule, or amend or repeal the rule, or portion thereof.

(b)1. If the committee votes to recommend the introduction of legislation to modify or suspend the adoption of a proposed rule, or amend or repeal a rule, the committee shall, within 5 days of this determination, certify that fact to the agency whose rule or proposed rule has been examined. The committee may request that the agency temporarily suspend the rule or suspend the adoption of the proposed rule, pending consideration of proposed legislation during the next regular session of the Legislature.

2. Within 30 days of receipt of the certification, if the agency is headed by an individual, or within 45 days of receipt of the certification, if the agency is headed by a collegial body, the agency must either:

a. Temporarily suspend the rule or suspend the adoption of the proposed rule; or

b. Notify the committee in writing that it refuses to temporarily suspend the rule or suspend the adoption of the proposed rule.

3. If the agency elects to temporarily suspend the rule or suspend the adoption of the proposed rule, it must give notice of the suspension in the Florida Administrative Weekly. The rule or the rule adoption process shall be suspended upon publication of the notice. An agency may not base any agency action on a suspended rule or suspended proposed rule, or portion thereof, prior to expiration of the suspension. A suspended rule or suspended proposed rule, or portion thereof, continues to be subject to administrative determination and judicial review as provided by law.

4. Failure of an agency to respond to committee certification within the time prescribed in subparagraph 2. constitutes a refusal to suspend the rule or to suspend the adoption of the proposed rule.

(c) The committee must prepare bills to modify or suspend the adoption of the proposed rule or amend or repeal the rule, or portion thereof, in accordance with the rules of the Senate and the House of Representatives for prefiling and introduction in the next regular session of the Legislature. The proposed bill must be presented to the President of the Senate and the Speaker of the House of Representatives with the committee recommendation.

(d) If a bill to suspend the adoption of a proposed rule is enacted into law, the proposed rule is suspended until specific legislative authority for the proposed rule has been delegated. If a bill to suspend the adoption of a proposed rule fails to become law, any temporary agency suspension of the rule shall expire. If a bill to modify a proposed rule or amend a rule is enacted into law, the suspension shall expire upon publishing notice of modification or amendment in the Florida Administrative Weekly. If a bill to repeal a rule is enacted into law, the suspension shall remain in effect until notification of repeal of the rule is published in the Florida Administrative Weekly.

(e) The Department of State shall publish in the next available issue of the Florida Administrative Weekly the final legislative action taken. If a bill to modify or suspend the adoption of the proposed rule or amend or repeal the rule, or portion thereof, is enacted into law, the Department of State shall conform the rule or portion of the rule to the provisions of the bill in the Florida Administrative Code and publish a reference to the law as a history note to the rule.

Section 10. Section 120.547, Florida Statutes, is created to read:

120.547 Rules; intent.—

(1) Sensible and common sense government requires a balance between the circumstances that would require rulemaking and the circumstances in which a case-by-case disposition is more appropriate. Each agency is encouraged to accomplish its statutory duties and objectives using sound judgment and flexibility so that agency action in implementing legislative enactments and in adopting agency rules is accomplished in a manner that meets individual needs and circumstances while at the same time carrying out legislative requirements. Rulemaking is the preferred method of implementing policy pursuant to a delegation of legislative authority because it gives the public an opportunity to participate in the development of agency policy and requirements.

(2) Agency policies or statements need not be adopted as a rule until they are sufficiently developed. Agencies are encouraged to adopt rules that can be flexibly applied. Agencies should avoid adopting rules which duplicate regulatory programs of other agencies unless specifically mandated to do so by the legislation being implemented. An agency policy or statement that meets the definition of a rule must be adopted as a rule unless one of the following exceptions applies, based on the facts:

(a) The particular issues or situations addressed are such that a more specific resolution of the matter is impractical outside of an adjudication to determine the substantial interests of a party based on individual circumstances;

(b) Detail in the establishment of principles, criteria, or standards for agency decisions is not reasonable under the circumstances;

(c) The agency has not had sufficient time to acquire the knowledge and experience reasonably necessary to resolve the matter by rulemaking;

(d) Related matters are not sufficiently settled at the time to permit satisfactory resolution of the matter by rulemaking; or

(e) The agency is currently using the rulemaking procedure expeditiously and in good faith to adopt rules which address the matter.

(3)(a) Any person substantially affected by an agency statement may seek an administrative determination that the statement violates subsection (2). 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.

(4) Within 30 days after the hearing, the hearing officer shall render a decision and state the reasons for the decision in writing. The hearing officer may determine whether all or part of a statement violates subsection (2). The decision of the hearing officer shall constitute a final order. The division shall transmit a copy of the final order to the Department of State and the committee. The Department of State shall publish notice of the final order in the first available issue of the Florida Administrative Weekly.

(5) When a hearing officer determines that all or part of an agency statement violates subsection (2), the agency shall immediately discontinue all reliance upon the statement or any substantially similar statement as a basis for agency action.

(6) Subsequent to a determination that an agency statement violates subsection (2), if an agency publishes, pursuant to s. 120.54(1), proposed rules which address the statement and proceeds expeditiously and in good faith to adopt rules which address the statement, the agency shall be permitted to rely upon the statement or a substantially similar statement as a basis for agency action. If an agency fails to adopt rules which address the statement within 180 days of publishing proposed rules, for purposes of this subsection, a presumption is created that the agency is not acting expeditiously and in good faith to adopt rules. If the agency's proposed rules are challenged pursuant to s. 120.54(4), the 180-day period for adoption of rules is tolled until a final order is entered in that proceeding.

(7) Subsequent to a hearing officer's determination that an agency statement violates subsection (2), if an agency relies upon the statement or any substantially similar statement as the basis for agency action, and the substantial interests of a person are determined by the agency action, that person is entitled to payment by the agency of reasonable costs and attorney's fees. Notwithstanding the provisions of chapter 284, an award shall be paid from the budget entity of the secretary, executive director, or equivalent administrative officer of the agency, and the agency shall not be entitled to payment of an award or reimbursement for payment of an award under any provision of law.

(8) Hearings held under this section 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.

(9) All proceedings to determine a violation of subsection (2) shall be brought pursuant to this section. A proceeding pursuant to this section may be brought in conjunction with a proceeding under any other section of this chapter, or consolidated with such a proceeding.

(10) Prisoners as defined in s. 944.02(5) are not eligible to seek an administrative determination of an agency statement under this section.

(11) Agency statements that relate to cost-recovery clauses, factors, or mechanisms implemented pursuant to chapter 366 are exempt from the requirements of this section.

Section 11. Paragraphs (a) and (b) 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 rulemaking 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 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.

(b) Publish a weekly publication entitled the "Florida Administrative Weekly," which shall contain:

1. Notice of adoption of, and an index to, all rules filed during the preceding week.

2. All hearing notices required by s. 120.54(1), showing the time, place, and date of the hearings and the text of all rules proposed for consideration or a reference to the location in the Florida Administrative Weekly where the text of the proposed rules is published.

3. All notices of meetings, hearings, and workshops conducted in accordance with the provisions of s. 120.53(1)*(b)*~~(d)~~, including a statement of the manner in which a copy of the agenda may be obtained.

4. A notice of each request for authorization to amend or repeal an existing model rule or for the adoption of new model rules.

5. A notice of each request for exemption from any provision of this chapter.

6. Notice of petitions for declaratory statements or administrative determinations.

7. A summary of each objection to any rule filed by the Administrative Procedures Committee during the preceding week.

8. Any other material required or authorized by law or deemed useful by the department.

The department may contract with a publishing firm for publication of the Florida Administrative Weekly.

(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 12. Subsection (2) of section 120.56, Florida Statutes, is amended, and subsection (6) is added to said section, 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. An agency's failure to comply with applicable rulemaking procedures or requirements in this chapter shall be presumed to be material; however, the agency may rebut this presumption by demonstrating that this noncompliance is not material, provided that no party has suffered any substantial prejudice as a result of the noncompliance.*

(6) When any substantially affected person seeks determination of the invalidity of a rule pursuant to this section, the rule is not presumed to be valid or invalid.

(a) The petition shall state with particularity the objections to the rule and the reasons that the rule is an invalid exercise of delegated legislative authority. The agency then has the burden to prove the validity of the rule as to the objections raised.

(b) If the agency fails to prove the validity of the rule, the court or hearing officer shall declare the rule or portion of the rule invalid and a judgment or order shall be rendered against the agency for costs and reasonable attorney's fees, unless the agency demonstrates that its actions were substantially justified or special circumstances exist which would make the award unjust. If the agency prevails in the proceedings, the court or hearing officer shall award costs and reasonable attorney's fees against a party if the court or hearing officer determines that a party participated in the proceedings for an improper purpose as defined in s. 120.59(6)(d)1.

(c) This subsection is repealed on July 1, 1998. The repeal of this subsection shall not affect petitions filed prior to that date.

Section 13. Section 120.565, Florida Statutes, is amended to read:

120.565 Declaratory statement by agencies.—*The model rules shall provide* ~~Each agency shall provide by rule the procedure~~ for the filing and prompt disposition of petitions for declaratory statements. A declaratory statement shall set out the agency's opinion as to the applicability of a specified statutory provision or of any rule or order of the agency as it applies to the petitioner in his particular set of circumstances only. The agency shall give notice of each petition and its disposition in the Florida Administrative Weekly, except that educational units shall give notice in the same manner as provided for rules in s. 120.54(1)~~(a)~~, and transmit copies of each petition and its disposition to the committee. Agency disposition of petitions shall be final agency action.

Section 14. Section 120.57, Florida Statutes, 1994 Supplement, 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) *or the parties are proceeding under s. 120.573 or s. 120.574.* 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 except the secretary of the Department of Business and Professional Regulation for matters relating to the regulation of professions, as defined in chapter 455, or a board or member of a board within the Department of Business and Professional Regulation for matters relating to the regulation of professions, as defined in chapter 455;

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. 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 *the* ~~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 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, including a reasonable attorney's fee.

6. The record in a case governed by this 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.

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 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.~~

8. Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.

9. Except as provided in subparagraph 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 *15* ~~at least 10~~ days in which to submit written exceptions to the recommended order.

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 *over which it has substantive jurisdiction* in the recommended order. *Rejection or modification of conclusions of law may not form the basis for rejection or modification of findings of fact.* 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 a gross abuse of the agency's discretion. *Upon review of agency action that precipitates an appeal, if the court finds that the agency improperly rejected or modified findings of fact in a recommended order, the court shall award reasonable attorney's fees and costs to a prevailing appellant for the administrative proceeding and the appellate proceeding.*

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.

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.

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.

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, *as well as a finding by the hearing officer in applicable cases as to whether the agency has complied with the requirements of s. 120.547.*

16. Notwithstanding any law to the contrary, when statutes or rules impose conflicting time requirements for the issuance of expedited hearings or recommended orders, the director of the division shall have the authority to set the proceedings for the orderly operation of this chapter.

(2) INFORMAL PROCEEDINGS.—In any case to which subsection (1) does not apply:

(a) The agency shall, in accordance with *the model* ~~its~~ rules ~~of procedure~~:

1. Give reasonable notice to affected persons or parties of the action of the agency, whether proposed or already taken, or of its decision to refuse action, together with a summary of the factual, legal, and policy grounds therefor.

2. Give affected persons or parties or their counsel an opportunity, at a convenient time and place, to present to the agency or hearing officer written or oral evidence in opposition to the action of the agency or of its refusal to act, or a written statement challenging the grounds upon which the agency has chosen to justify its action or inaction.

3. If the objections of the persons or parties are overruled, provide a written explanation within 7 days.

(b) The record shall only consist of:

1. The notice and summary of grounds;

2. Evidence received or considered;

3. All written statements submitted by persons and parties;

4. Any decision overruling objections;

5. All matters placed on the record after an ex parte communication pursuant to s. 120.66(2); and

6. The official transcript.

(3) Unless precluded by law, informal disposition may be made of any proceeding by stipulation, agreed settlement, or consent order.

(4) This section does not apply to agency investigations preliminary to agency action.

(5) This section does not apply to any proceeding in which the substantial interests of a student are determined by the State University System. The Board of Regents shall establish a committee, at least half of whom shall be appointed by the Council of Student Body Presidents, which shall establish by January 1, 1985, rules and guidelines ensuring fairness and due process in judicial proceedings involving students in the State University System. This section shall not become effective until January 1, 1985.

(6) In cases where a conceptual review permit has been issued by a water management district, petitions challenging the issuance of a construction or operating permit implementing the conceptual review permit, upon a motion of a party, shall be subject to expedited review. Within 15 days of filing a motion for expedited review by the district or the applicant, the hearing officer shall, by order, establish a schedule for the proceedings, including discovery, which provides for a final hearing within 60 days of the issuance of the order. Proposed recommended orders must be submitted to the hearing officer, if at all, within 10 days of the filing of the hearing transcript. Recommended orders shall be submitted to the district within 30 days of the last day for the filing of the proposed recommended order. The district shall issue its final order within 45 days of the receipt of the recommended order. If the district grants the construction or operating permit, the permittee may proceed unless judicial review of final agency action is sought pursuant to s. 120.68 and a stay is applied for and issued.

Section 15. Section 120.573, Florida Statutes, is created to read:

120.573 Mediation of disputes.—Each announcement of an agency decision that affects substantial interests shall advise whether mediation of the administrative dispute is available and that choosing mediation does not affect the right to an administrative hearing. If the agency and *all parties to the administrative action agree to mediation, in writing,* within the time period stated in the announcement for election of an administrative remedy under s. 120.57, the time limitations imposed by s. 120.57 shall be tolled to allow the agency and parties to mediate the administrative dispute. The mediation must be concluded within 60 days of such agreement unless otherwise agreed by the parties. 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 s. 120.57 remain available for disposition of the dispute and state with particularity the deadlines for challenging the agency action and electing remedies under s. 120.57.

Section 16. Section 120.574, Florida Statutes, is created to read:

120.574 Summary hearing.—

(1)(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 original 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 advising the addressees that a summary hearing is available upon the agreement of all parties under subsection (2) and briefly describing the expedited time sequences, limited discovery, and final order provisions of the summary procedure.

(b) Within 15 days after service of the initial order, any party may file with the division a motion for summary hearing in accordance with subsection (2). If all original parties agree, in writing, to the summary proceeding, the proceeding shall be conducted within 30 days of the agreement, in accordance with the provisions of subsection (2).

(c) Intervenors in the proceeding shall be governed by the decision of the hearing officer regarding whether the case will proceed in accordance with the summary hearing process in subsection (2) and shall not have standing to challenge that decision.

(d) If a motion for summary hearing under subsection (2) is not filed within 15 days after service of the division's initial order, the matter shall proceed in accordance with s. 120.57.

(2) In any case to which this subsection is applicable, the following procedures apply:

(a) Motions shall be limited to the following:

1. A motion in opposition to the petition.

2. A motion requesting discovery beyond the informal exchange of documents and witness lists described in paragraph (b). Upon a showing of necessity, additional discovery may be permitted in the discretion of the hearing officer, but only if it can be completed not later than 5 days prior to the final hearing.

3. A motion for continuance of the final hearing date.

4. 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.

5. 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. 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 s. 120.57(1), in which event the parties shall proceed accordingly.

(b) Not later than 5 days prior to 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.

(c) 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.

(d) The record in a case governed by this subsection shall consist only of:

1. All notices, pleadings, motions, and intermediate rulings.

2. Evidence received.

3. A statement of matters officially recognized.

4. Proffers of proof and objections and rulings thereon.

5. Matters placed on the record after an ex parte communication pursuant to s. 120.66(2).

6. The written decision of the hearing officer presiding at the final hearing.

7. The official transcript of the final hearing.

(e) 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.

(f) 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:

1. Findings of fact based exclusively on the evidence of record and matters officially recognized.

2. Conclusions of law and interpretations of administrative rules.

3. Imposition of a fine or penalty, if applicable.

4. Any other information required by law or rule to be contained in a final order.

(g) 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.

(h) 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 s. 120.57(1).

Section 17. Subsections (2) and (6) of section 120.59, Florida Statutes, are amended to read:

120.59 Orders.—

(2) Findings of fact, if set forth in a manner which is no more than mere tracking of the statutory language, must be accompanied by a concise and explicit statement of the underlying facts of record which support the findings. If, in accordance with *the model* ~~agency~~ rules, a party submitted proposed findings of fact or filed any written application or other request in connection with the proceeding, the order must include a ~~ruling upon each proposed finding and a~~ brief statement of the grounds for denying the application or request.

(6)(a) In any proceeding pursuant to s. 120.57(1), a prevailing party shall be entitled to recover *reasonable* costs from the nonprevailing adverse party, and shall also be entitled to recover a reasonable *attorney's* ~~attorney~~ fee, as provided *in this section* ~~herein~~. ~~The provisions of this subsection shall not apply to a prevailing or nonprevailing party that is an agency.~~

(b) The final order in a proceeding pursuant to s. 120.57(1) shall award costs and a reasonable attorney fee to the prevailing party only where the nonprevailing adverse party has been determined by the hearing officer to have participated in the proceeding for an improper purpose.

~~(c) In all proceedings pursuant to s. 120.57(1),~~ The hearing officer shall determine whether any party~~, other than a party that is an agency,~~ participated in the proceeding for an improper purpose as defined in this subsection *and in s. 120.57(1)(b)5.* In making such determination, the hearing officer shall *also* consider whether the nonprevailing adverse party has participated in two or more other such proceedings involving the same ~~nonagency~~ prevailing party and the same project as an adverse party and in which such two or more proceedings the nonprevailing adverse party did not establish either the factual or legal merits of its position and shall consider whether the factual or legal position asserted in the instant proceeding would have been cognizable in the previous proceedings. In such event, it shall be rebuttably presumed that the nonprevailing adverse party participated in the pending proceeding for an improper purpose.

(c)~~(d)~~ In any proceeding in which the hearing officer determines that a party participated in the proceeding for an improper purpose, the recommended order shall so designate and shall *determine* ~~recommend~~ the award of costs and attorney fees.

(d)~~(e)~~ For the purpose of this subsection:

1. "Improper purpose" means participation in a proceeding pursuant to s. 120.57(1) primarily to harass or to cause unnecessary delay or for frivolous purpose or to needlessly increase the cost of licensing or securing the approval of an activity

2. "Costs" shall have the same meaning as the costs allowed in civil actions in this state as provided in chapter 57.

3. "Nonprevailing adverse party" shall mean a party that has failed to have substantially changed the outcome of the proposed or final agency action which is the subject of a proceeding. In the event that a proceeding results in any substantial modification or condition intended to resolve the matters raised in a party's petition, it shall be determined that the party having raised the issue addressed is not a "nonprevailing adverse party." The recommended order shall state whether the change is substantial for purposes of this subsection. In no event shall the term "nonprevailing party" or "prevailing party" be deemed to include any party that has intervened in a previously existing proceeding to support the position of an agency.

Section 18. Subsections (4), (5), (6), (7), (8), and (10) of section 120.65, Florida Statutes, are amended to read:

120.65 *Administrative law judges* ~~Hearing officers~~.—

(4) The division shall employ full-time *administrative law judges* ~~hearing officers~~ to conduct hearings required by this chapter or other law. No person may be employed by the division as a full-time *administrative law judge* ~~hearing officer~~ unless *that person* ~~he~~ has been a member of The Florida Bar in good standing for the preceding 5 years. *Effective January 1, 1996, the annual salary of each full-time administrative law judge shall be $5,000 less than the annual salary paid to a circuit judge. The director of the division shall have the authority to terminate the employment of a full-time administrative law judge for cause. For the purpose of this section, "cause" means inability to perform assigned duties, neglect of duty, conduct unbecoming an administrative law judge, or a violation of the code of judicial conduct. Jurisdiction over any proceeding concerning dismissal or discipline of an administrative law judge shall be in circuit court.*

(5) If the division cannot furnish *an administrative law judge* ~~a division hearing officer~~ promptly in response to an agency request, the director shall designate in writing a qualified full-time employee of an agency other than the requesting agency to conduct the hearing. The director shall have the discretion to designate a hearing officer who is a qualified full-time employee of an agency other than the requesting agency which is located in that part of the state where the parties and witnesses reside.

(6) The director shall have the discretion to designate qualified laypersons to conduct hearings. If a layperson is so designated, the director shall assign *an administrative law judge* ~~a hearing officer~~ to assist in the conduct of the hearing and to rule upon proffers of proof, questions of evidence, disposition of procedural requests, and similar matters.

(7) By rule, the division may establish:

(a) Further qualifications for *administrative law judges* ~~hearing officers~~ and shall establish procedures by which candidates will be considered for employment or contract.

(b) The manner in which public notice will be given of vacancies in the staff of *administrative law judges* ~~hearing officers~~.

(c) Procedures for the assignment of *administrative law judges* ~~hearing officers~~.

(8) The division is authorized to provide *administrative law judges* ~~hearing officers~~ on a contract basis to any governmental entity to conduct any hearing not covered by this section.

(10) Rules promulgated by the Division of Administrative Hearings pursuant to this section, s. 120.53, or s. 766.207 may authorize any reasonable sanctions except contempt for violation of the rules of the division or failure to comply with a reasonable order issued by *an administrative law judge* ~~a hearing officer~~, which is not under judicial review.

Section 19. The Division of Statutory Revision of the Joint Legislative Management Committee is directed to prepare a reviser's bill for introduction at the 1996 Regular Session to conform the Florida Statutes to the amendment to s. 120.65, Florida Statutes, by this act.

Section 20. Subsections (2) and (8) and paragraph (b) of subsection (3) of section 120.68, Florida Statutes, are amended, and subsection (16) is added to said 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 are authorized to transfer and consolidate the review proceedings. The 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 interrelationship 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.

(3)

(b) The filing of a petition appealing an order issued by a hearing officer under s. *120.547* ~~120.535~~, whether filed by the agency or any other party, does not stay enforcement of the hearing officer's order, unless the court, upon petition of the agency or other party, determines that a stay is necessary to avoid a probable danger to the public health, safety, or welfare. A stay order shall specify the conditions, if any, upon which the stay is granted.

(8) The court shall remand the case for further agency action if it finds that either the fairness of the proceedings or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure. Failure of any agency to comply with s. 120.53 *or s. 120.54* shall be presumed to be a material error in procedure.

(16) If a hearing officer's final order in a proceeding pursuant to s. 120.54, s. 120.547, or s. 120.56 depends on any fact found by the hearing officer, the court shall not substitute its judgment for that of the hearing officer as to the weight of the evidence on any disputed finding of fact. The court shall, however, set aside the final order of the hearing officer or remand the case to the hearing officer, if it finds that the final order depends on any finding of fact that is not supported by competent substantial evidence in the record of the proceeding under s. 120.54, s. 120.547, or s. 120.56.

Section 21. Notice of noncompliance.—

(1) Each agency shall issue a notice of noncompliance as a first response to a minor violation of a rule. A "notice of noncompliance" is a notification by the agency charged with enforcing the rule, issued to the person or business subject to the rule. A notice of noncompliance shall not be accompanied by a fine or other disciplinary penalty. It must identify the specific rule that is being violated, provide information on how to comply with the rule, and specify a reasonable time for the violator to comply with the rule. This section applies to rules that regulate a business, occupation, or profession, or regulate a person operating a business, occupation, or profession, and which, if not complied with, may result in a disciplinary penalty.

(2) Each agency shall review all of its rules and designate those for which a violation would be a minor violation, and for which a notice of noncompliance must be the first enforcement action taken against the person or business subject to regulation. A violation of a rule is a minor violation if it does not result in economic or physical harm to a person, or adversely affect the public's health, safety, or welfare, or create a significant threat of such harm. An agency under the direction of a cabinet officer shall by order determine which of its rules have been designated as rules the violation of which would be a minor violation. If the agency provides notice of the designated rules to licensees at the time of licensure and at least annually thereafter in a publication mailed to each licensee, then the provisions of subsection (1) do not apply. Such notice shall include a subject matter index of the rules and information on how copies of the rules may be obtained.

(3) Each agency's review and designation must be completed by December 1, 1995. Each agency under the direction of the Governor shall make a report to the Governor, and each agency under the direction of the Governor and Cabinet shall make a report to the Governor and Cabinet, by January 1, 1996, identifying which of its rules have been designated as rules the violation of which would be a minor violation.

(4) The Governor, or the Governor and Cabinet, as appropriate pursuant to subsection (3), may evaluate the designation of each agency, and may require the agency to modify its designation where appropriate.

(5) This section does not apply to the regulation of law enforcement personnel or teachers.

(6) Designation pursuant to this section shall not be subject to challenge under chapter 120, Florida Statutes.

Section 22. The Florida Administrative Law Revision Council.—

(1) The Florida Administrative Law Revision Council is hereby established. The council shall be composed of 12 members. The President of the Senate shall appoint two members, one of whom shall be a member of The Florida Bar in the private practice of law, and one of whom shall not be a member of The Florida Bar; the Speaker of the House of Representatives shall appoint two members, one of whom shall be a member of The Florida Bar in the private practice of law, and one of whom shall not be a member of The Florida Bar; the Governor shall appoint three members, one of whom shall be an active judge of a District Court of Appeal and two of whom shall be members of The Florida Bar employed by the executive branch; the President of The Florida Bar shall appoint two members, one of whom shall be a member of The Florida Bar in the private practice of law, and one of whom shall be a member of the faculty of a private accredited school of law in the state; the Dean of the University of Florida College of Law shall appoint one member, who shall be a member of the College of Law faculty; the Dean of the Florida State University College of Law shall appoint one member, who shall be a member of the College of Law faculty; and one member shall be the director of the Division of Administrative Hearings or her designee. The members of the council shall elect a chairman and vice chairman. Vacancies shall be filled for any unexpired terms in the same manner in which the initial members were appointed. All appointments shall be made within 60 days of the date that this act becomes a law. Members of the council shall serve without compensation, but shall be reimbursed for per diem and travel expenses pursuant to s. 112.061, Florida Statutes.

(2) Staffing for the Florida Administrative Law Revision Council shall be provided by the Joint Administrative Procedures Committee.

(3) On or before January 2, 1997, the Florida Administrative Law Revision Council shall file with the President of the Senate, the Speaker of the House of Representatives, and the Governor, a report recommending revisions to chapter 120, Florida Statutes, that will achieve:

(a) An administrative process that is not overly complex or burdensome;

(b) An administrative process that provides easy access to the process for parties affected by agency action;

(c) An administrative process that is not costly to participate in;

(d) An administrative process that gives equal consideration to the position of the affected party and the agency; and

(e) Any other goal that the council considers appropriate based on the Legislature's examination of that chapter or based on comments or recommendations made by any public official, organization, or person.

Section 23. There is hereby appropriated from the General Revenue Fund to the Joint Administrative Procedures Committee the sum of $203,000 for the purpose of providing staffing and travel expenses for the Florida Administrative Law Revision Council.

Section 24. The Governor shall designate an ombudsman within the Executive Office of the Governor, who shall report directly to the Governor. The ombudsman shall serve as a point of contact in the executive branch regarding administrative procedures of agencies. The ombudsman shall serve as a liaison between agencies and the public, other governmental entities, and the Joint Administrative Procedures Committee.

Section 25. Effective October 1, 1995, section 334.0361, Florida Statutes, is created to read:

334.0361 Common sense in government program.—

(1) This section may be cited as the "Common Sense in Government Act."

(2) The Legislature finds that strict application of agency rules does not always produce reasonable results in state agency operations. This section is intended to enable the Department of Transportation to exercise reasonable judgment and common sense in dealing with the public through use of guidelines instead of adopted rules.

(3) Notwithstanding any other provision of law to the contrary, rules of the Department of Transportation are suspended pursuant to this section for a period of 3 years from the effective date of this section. The department is specifically exempted from the statutory rulemaking mandates of chapters 20, 163, 316, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 341, 348, 349, 351, 479, and 861. The department is also specifically exempted from the provisions of ss. 120.53, 120.533, 120.54, 120.543, 120.547, 120.55, 120.56, 120.565, and 120.59(6). The Administrative Procedures Committee and the appropriate substantive legislative oversight committees shall monitor the implementation of the suspension of the rules authorized by this section.

(4)(a) All of the Department of Transportation's current rules, directives, guidelines, policies, policy statements, and procedures shall become guidelines by which the department shall operate on the effective date of this section.

(b) In developing guidelines, if the department determines that a proposed guideline substantially affects a particular person, entity, or group of persons or entities, it shall provide a method for notification of the development of the proposed guideline to the affected persons or entities. The department shall submit any new guidelines or modifications to its existing guidelines to the Administrative Procedures Committee for review and comment. The department shall respond to any comments by the Administrative Procedures Committee. The department shall also document any comments made to the department by any person who is or may be substantially affected by a proposed guideline.

(c) In implementing statutory authority, if the department determines that the use of the guidelines does not produce a reasonable result, a decision that will achieve such a result may be made. The secretary may delegate the ability to make a decision under this section to a position level no lower than that of a district or central office head or its organizational equivalent, as described under s. 110.205(2)(l). The department shall provide a method for documenting the basis for such decisions.

(5) The Department of Transportation shall notify a person whose substantial interests are affected by the department's application of its guidelines or the department's decisions made pursuant to paragraph (4)(c) of the right to an administrative hearing pursuant to s. 120.57. The department shall also notify the person whose substantial interests are affected that on making the request for an administrative hearing within the time period stated in the announcement for election of remedy under s. 120.57, the time limitations imposed by s. 120.57 shall be tolled and the matter will be transferred to an alternative dispute resolution process, unless the affected person waives the right to an alternative dispute resolution process and wishes to proceed directly to an administrative hearing under s. 120.57. The department shall develop guidelines for an alternative dispute resolution process which shall include provisions assuring that the ultimate determination is not controlled by the department. The department shall pay for this alternative dispute resolution process in its entirety. If the alternative dispute resolution process results in a settlement of the dispute, the settlement agreement shall be in writing and shall be the basis for and incorporated into the department's final order. If the alternative dispute resolution process terminates without resolution of the dispute, the department shall refer the matter to the Division of Administrative Hearings in conformance with the requirements of s. 120.57. A disputed matter shall not be referred to the Division of Administrative Hearings by the department until the alternative dispute resolution process is completed or the affected person waives the right to such process and proceeds directly to an administrative hearing under s. 120.57. In a s. 120.57 proceeding under this section, a finding of fact made by the hearing officer may not be rejected or modified by the department.

(6) For any proceeding conducted under s. 120.57 which has been requested under this section, each party shall bear its own costs and attorney's fees. If there is an appeal of the department's final order, upon final disposition of the matter attorney's fees and costs for the appeal shall be awarded to the prevailing party in an amount to be determined by the Division of Administrative Hearings.

(7) An officer, employee, or agent of the department who carries out this section is safeguarded and protected from personal liability in the same manner as provided in s. 768.28.

(8) The Department of Transportation shall report by February 15 of each year to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Administrative Procedures Committee, and the appropriate substantive legislative oversight committees on the implementation of this section. The report must provide specific information regarding each challenge and must demonstrate whether the number of challenges has increased or decreased over challenges during the 5-year period prior to October 1, 1995.

(9) The Office of Program Policy Analysis and Government Accountability shall conduct a performance review of the Department of Transportation's implementation of this section and report to the Legislature no later than February 1, 1998. The review shall include, but not be limited to, the following information:

(a) The number of dispute resolution proceedings conducted under this section.

(b) The number of proceedings filed pursuant to s. 120.57 conducted under this section.

(c) Whether the number of proceedings involving the department has increased in either the Division of Administrative Hearings or the court system as a result of the implementation of this section. In determining this information, the average number of proceedings for the period beginning in fiscal year 1990-1991 and ending in fiscal year 1994-1995 shall be used as the base line data.

(d) Whether any officer, employee, or agent of the department has been charged with any type of misconduct or the commission of a misdemeanor or felony, and the disposition of such charges.

(e) Whether the department has increased administrative staff or budget as a result of additional workload required by the implementation of this section.

(f) The number of waivers or deviations from the guidelines the department granted under this section and an assessment of reasons for such waivers or deviations.

(10) This section does not affect any pending litigation concerning any rule which is the subject of state or federal litigation on the effective date of this section.

(11) This section is repealed on October 1, 1998, unless reenacted by the Legislature.

Section 26. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or 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 27. Except as otherwise provided herein, this act shall take effect July 1, 1995.

And the title is amended as follows:

Strike the entire title and insert: A bill to be entitled An act relating to administrative procedure; amending s. 11.60, F.S.; revising requirements relating to the Administrative Procedures Committee's annual

report and standing to seek review of rules; providing additional duties relating to review of the rulemaking process, establishment of evaluation criteria, and review of statutes; amending s. 120.52, F.S.; revising the definition of "agency" for purposes of the Administrative Procedure Act and including the Commission on Ethics and the Game and Fresh Water Fish Commission within said definition; revising the definitions of "invalid exercise of delegated legislative authority" and "rule" and defining "small city" and "small county"; amending s. 120.53, F.S.; requiring agencies to make certain information available; deleting a requirement that agencies adopt certain rules relating to organization and procedures; directing the Administration Commission to adopt model rules for agency meetings and hearings and rules providing procedures for conducting meetings and taking evidence by means of communications media technology; requiring that certain agency orders be indexed; creating s. 120.534, F.S.; providing that adoption of a rule by an agency requires a specific law to be implemented and providing requirements with respect thereto; requiring agencies to provide the Administrative Procedures Committee with a list of existing rules which exceed such rulemaking authority and initiate proceedings to repeal such rules; requiring reports to the Legislature; providing that the committee or a substantially affected person may petition for repeal of such rules after a specified date; repealing s. 120.535, F.S., which requires the adoption of specified rules as soon as feasible and practicable, provides presumptions with respect thereto, and provides procedures for substantially affected persons to seek a determination with respect thereto; amending s. 120.54, F.S.; revising the required procedures for adoption of rules by agencies; requiring a notice of rule development; revising requirements relating to workshops; providing for use of negotiated rulemaking; revising requirements relating to the notice of intended action; requiring that the agency consider the impact on small businesses, small cities, and small counties and providing requirements with respect thereto; requiring the agency to prepare a statement of estimated regulatory costs; providing requirements with respect thereto and specifying effect of failure to do so; providing for future expiration; revising requirements and procedures applicable when a substantially affected person seeks an administrative determination of the invalidity of a proposed rule on the ground that it is an invalid exercise of delegated legislative authority; providing for costs and attorney's fees; providing for future repeal; requiring the agency to compile a rulemaking record; providing that certain citation requirements apply to proposed rules; specifying a date for adoption of model rules of procedure by the commission and requiring that agencies comply therewith by a specified date; providing for exceptions; revising requirements and procedures for adoption of rules and rule changes; providing for consideration of alternatives proposed by affected persons; providing that implementation of statutory provisions shall not be delayed pending adoption of implementing rules; providing for postponement of rule adoption to accommodate review; providing for notice of rule changes prior to adoption; providing that rules should be drafted in readable language; providing requirements with respect to one agency including action based on another agency's statement, policy, or guideline as a condition of license approval; requiring that agencies submit a list of rules recommended to be repealed to the Governor; directing the Governor to compile a list of rules to be repealed; providing procedures for repeal of such rules; providing for legislative review of rules the repeal of which is objected to; providing procedures for repeal of such rules if no legislative action is taken; providing for repeal of said provisions; requiring agencies to review existing rules and report thereon; amending s. 120.545, F.S.; revising requirements relating to review of agency rules by the committee; providing that when the committee objects to a rule and the agency fails to respond within a specified period, the committee may recommend legislation to modify or suspend adoption of a proposed rule or amend or repeal a rule, and request the agency to temporarily suspend the adoption process or the rule; specifying effect if such legislation is enacted or fails to become law; creating s. 120.547, F.S.; providing intent with respect to rulemaking; providing that an agency policy or statement that meets the definition of a rule must be adopted as a rule unless specified exceptions apply; providing procedures and requirements for a substantially affected person to seek an administrative determination of violation of said requirement; specifying results of such determination; providing for costs and attorney's fees; providing exceptions; amending s. 120.55, F.S.; revising provisions relating to publication of the Florida Administrative Code and distribution of the Florida Administrative Weekly; increasing the limit on the unencumbered balance in the Publication Revolving Trust Fund; amending s. 120.56, F.S.; revising provisions relating to an administrative determination of a rule's validity by a hearing officer; providing requirements with respect to burden of proof and attorney's fees and costs when a substantially affected person seeks determination of the invalidity of a rule; providing for future repeal; amending s. 120.565, F.S.; providing that the model rules shall provide for filing and disposition of petitions for declaratory statements; amending s. 120.57, F.S.; revising provisions relating to formal proceedings in which a party's substantial interests are determined; deleting certain recordkeeping requirements applicable to a consumptive use permit applicant; revising the time period for submission of written exceptions to a recommended order; revising provisions relating to an agency's modification of a recommended order and the form of recommended and final orders; providing for attorney's fees and costs; providing authority of the director of the Division of Administrative Hearings to set the order of proceedings; creating s. 120.573, F.S.; providing procedures and requirements for mediation of administrative disputes; creating s. 120.574, F.S.; providing for summary hearings and providing procedures and requirements with respect thereto; requiring the division to maintain a register of formal proceedings for a specified period; amending s. 120.59, F.S., relating to orders; revising requirements relating to findings of fact; revising provisions relating to recovery of costs and attorney's fees and application thereof; amending s. 120.65, F.S.; providing for employment by the Division of Administrative Hearings of administrative law judges, rather than hearing officers, to conduct hearings under the Administrative Procedure Act; providing the salary of such judges; providing authority of the director of the division to terminate employment of such judges; directing that a reviser's bill be prepared to conform the Florida Statutes; amending s. 120.68, F.S.; revising provisions relating to judicial review; providing requirements relating to consolidated proceedings; revising requirements imposed on court action; requiring that agencies issue a notice of noncompliance as a first response to a minor violation of a rule; providing an exception for certain rules; directing agencies to review their rules, designate those for which such notice should be issued, and report thereon to the Governor or Governor and Cabinet, as appropriate; providing for modification of such designations; providing exceptions; creating the Florida Administrative Law Revision Council; providing for its membership and staff; requiring a report; providing an appropriation; requiring the Governor to appoint an ombudsman with respect to administrative procedures; creating s. 334.0361, F.S., the "Common Sense in Government Act"; providing legislative intent and findings; providing for suspension of Department of Transportation rules for a specified period; providing for operation of the department pursuant to guidelines, rather than rules; providing requirements with respect thereto; providing for an alternative dispute resolution process in lieu of an administrative hearing; providing for attorney's fees and costs; providing for immunity of department officers, employees, and agents; requiring annual reports; providing for a performance review; providing applicability; providing for future repeal; providing effective dates.

Senator Williams moved the following amendments which were adopted:

Senate Amendment 1 (with Title Amendment) to House Amendment 1—On page 38, strike all of lines 11-27 and insert:

agency headed by the Governor must submit to the Governor, and each agency headed by the Governor and Cabinet must submit to the Governor and Cabinet, a list of its own rules recommended to be repealed. The Governor or the Governor and Cabinet shall review the list of rules and may remove any rule from the list. The Governor or the Governor and Cabinet must compile a list of rules from those submitted by the agencies to be repealed and must notice the list of the rules proposed to be repealed in the Florida Adminstrative Weekly. The rules may be filed for repeal with the Department of State at least 21 days after the publication of the notice in the Florida Administrative Weekly. If a person substantially affected by the rule files an objection to the repeal of a specific rule with the Governor or the Governor and Cabinet within 21 days after the publication of the notice, then the rule is not repealed. If no objection to a specific rule is timely filed, the rule is repealed upon filing.

(b) Each rule that has been objected to under this subsection shall be submitted by the Governor or the Governor and Cabinet to the

And the title is amended as follows:

In title, on page 85, strike all of lines 28 and 29 and insert: repealed to the Governor or Governor and Cabinet; directing the Governor or Governor and Cabinet to compile a list of rules to be

Senate Amendment 2 (with Title Amendment) to House Amendment 1—On page 70, line 19, through page 72, line 18, strike all of said lines and insert:

Section 18. The director of the Division of Administrative Hearings shall have the authority to terminate the employment of a full-time hearing officer for cause. For the purpose of this section, "cause" means inability to perform assigned duties, neglect of duty, conduct unbecoming an administrative law judge, or violation of the code of judicial conduct. Jurisdiction over any proceeding concerning dismissal or discipline of a hearing officer shall be in circuit court.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 88, strike all of lines 7-16 and insert: thereof; authorizing the director of the Division of Administrative Hearings to terminate employment of a full-time hearing officer for cause;

Senate Amendment 3 (with Title Amendment) to House Amendment 1—On page 77, strike all of lines 22-26 and renumber subsequent sections.

And the title is amended as follows:

In title, on page 89, line 2, strike "providing an appropriation;"

On motion by Senator Williams, the Senate concurred in the House amendment as amended and requested the House to concur in the Senate amendments to the House amendment.

CS for CS for SB 536 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 580 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 580—A reviser's bill to be entitled An act relating to the Florida Statutes; amending ss. 18.07, 24.119, 27.345(2), 27.3451, 27.7001, 39.421(2)(b), (3), 39.422(2), 39.423(2), (3), (4), 39.426(1), (2), 45.051, 63.062(1)(b), 92.26, 99.0955(3)(b), 100.361(1)(i), 106.07(8)(c), (e), 110.131(3), (5), 113.01, 117.01(2), 117.107(4), 120.545(1), 154.245, 163.3164(1), 163.3213(6), 186.003(9), 186.503(7), (9), 189.415(3), 190.024, 193.1145(9), (11), 193.481(6), 196.121(2), 196.24, 205.171(1), 212.052(1)(b), 212.0596(6), 212.081, 212.66, 213.05, 215.34(1), 215.605(3), 216.181(7)(c), 216.231(1), 216.262(1)(b), (3), 228.501(3), 228.502(8), 229.512(15), 229.57(3)(c), 229.602(10)(d), 229.8333(4), 230.643, and 231.1713, Florida Statutes, and ss. 20.15(5), (6), 26.012(4), 39.024(4)(b), 44.1011(2)(c), 110.205(2)(l), 159.27(16), 196.1995(7)(d), (8)(d), (9)(d), 206.9935(2)(b), (d), 212.02(2), 212.06(11)(c), 215.20(4)(a), 230.2303(8)(b), 236.083(1)(d), and 236.13(2), Florida Statutes (1994 Supplement), pursuant to s. 11.242, Florida Statutes; deleting provisions that have expired or served their purpose; revising or correcting cross-references; correcting grammatical or like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; amending s. 236.081, F.S.; transferring responsibility for preparation of the Florida Price Level Index from the Executive Office of the Governor to the Commissioner of Education; amending s. 213.053, F.S.; authorizing the Department of Revenue to share information with the Department of Education for purposes of preparing the index; and correcting errors in the editing, publishing, and printing of the Florida Statutes.

House Amendment 1 (with Title Amendment)—On page 59, line 8, through page 61, line 6, strike all of said lines.

And the title is amended as follows:

In title, on page 2, strike all of lines 1-8 and insert: and correcting errors in

On motion by Senator Jennings, the Senate concurred in the House amendment.

SB 580 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—36 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 586 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 586—A reviser's bill to be entitled An act relating to the Florida Statutes; amending ss. 607.1421(4), 607.1520(2)(d), 617.0128(2)(d), 617.0601(4), 617.1533(2), 617.1623(1)(e), 617.1805, 617.1808, 624.310(4)(f), 624.311(4), 624.447, 624.468(5), 624.469(1), 624.475, 624.5092(3), 624.523(1)(l), 624.606(1)(e), 624.6065, 624.6081, 625.041(3), 625.121(3)(b), 625.52(3)(a), 626.7492(2)(g), 627.4147(1)(a), (b), (2), 627.6482(7), 627.6486(1)(b), 627.651(4), 627.6516, 627.6577(3), 627.7275(2)(a), 627.733(5), 627.778(1)(c), 627.7865, 628.909(3)(e), 631.813, 631.814(8), 631.815, 633.061(3)(c), 633.071(2), 634.404(6), 641.201, 641.21(1), (3), 641.22(1), 641.23(1), 641.261(1), 641.3007(4)(a), 641.405(2)(f), 641.406(1), 641.411(1), 641.45(1), 641.49(2), 641.58(4), 655.019(3), (4), 655.0386(1), 660.33(4)(c), 681.1095(3), 697.205(1)(a), 712.06(3), 713.245(2), 719.108(8)(b), 719.504, 723.0381(2), 723.084(7), 723.086, 731.301(1)(c), 744.106, 744.301(4)(a), 744.307(2), 744.367(3), 744.703(1), 747.035(1), 766.104(1), 812.16(1)(b), 817.40, 817.47, 817.61, 895.05(7)(b), 941.11, 944.096(2), 945.36(2), and 948.001(1), Florida Statutes, and ss. 624.424(9)(a), 624.462(2)(b), (6), 627.736(9)(b), 627.912(1), 641.55, 655.50(8)(d), 718.116(9)(b), 766.105(1)(b), (e), 790.25(2)(b), (3)(o), 865.09(3), 895.02(1)(a), (2)(a), 934.09(7)(e), (11), and 946.40(1), Florida Statutes (1994 Supplement), pursuant to s. 11.242, Florida Statutes; deleting provisions which have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; and improving the clarity of the statutes and facilitating their correct interpretation.

House Amendment 1 (with Title Amendment)—On page 17, line 24, through page 18, line 24, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

In title, on page 1, line 10, strike "626.7492(2)(g),"

On motion by Senator Jennings, the Senate concurred in the House amendment.

SB 586 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 874, reconsidered and further amended, and passed as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 874—A bill to be entitled An act relating to the Open Government Sunset Review Act; amending s. 119.14, F.S., to rename the act; deleting the repeal schedule for the period 1986-1995; requiring a prospective repeal and prior review for exemptions from the public records law or public meetings law which are subsequently enacted or substantially amended; specifying that the act does not apply to the Legislature or State Court System; deleting the requirement that the Legislature consider the need for conducting additional reviews of exemptions; amending s. 286.0111, F.S., to incorporate amendments to s. 119.14, F.S.; providing an effective date.

House Amendment 2 (with Title Amendment)—On page 1, strike everything after the enacting clause and insert:

Section 1. Section 119.14, Florida Statutes, is repealed.

Section 2. Section 119.15, Florida Statutes, is created to read:

119.15 Legislative review of exemptions from public meeting and public records requirements.

(1) This section may be cited as the Open Government Sunset Review Act of 1995.

(2) This section provides for the automatic application of the policy of open government as provided in ss. 119.01 and 286.011 to certain exemptions from ss. 286.011 and 119.07(1). It is the intent of the Legislature that exemptions to ss. 119.07(1) and 286.011 shall be created or maintained only if:

(a) The exempted record or meeting is of a sensitive, personal nature concerning individuals;

(b) The exemption is necessary for the effective and efficient administration of a governmental program; or

(c) The exemption affects confidential information concerning an entity.

Thus, the maintenance or creation of an exemption must be compelled as measured by these criteria. Further, the Legislature finds that the public has a right to have access to executive branch governmental meetings and records unless the criteria in this section for restricting such access to a public meeting or public record are met and the criteria are considered during legislative review in connection with the particular exemption to be significant enough to override the strong public policy of open government. To strengthen the policy of open government, the Legislature shall consider the criteria in this section before enacting future exemptions.

(3)(a) In the 5th year after enactment of a new exemption or substantial amendment of an existing exemption, the exemption shall repeal on October 2nd of the 5th year, unless the Legislature acts to reenact the exemption. A law that enacts a new exemption or substantially amends an existing exemption must state that the exemption is repealed at the end of 5 years and that the exemption must be reviewed by the Legislature before the scheduled repeal date.

(b) For purposes of this section, an exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records. An exemption is not substantially amended if the amendment narrows the scope of the exemption.

(c) This section is not intended to repeal an exemption that has been amended following legislative review before the scheduled repeal of the exemption if the exemption is not substantially amended as a result of the review.

(d) In the year before the repeal of an exemption under this section, the Division of Statutory Revision of the Joint Legislative Management Committee shall certify to the President of the Senate and the Speaker of the House of Representatives, by June 1, the language and statutory citation of each exemption scheduled for repeal the following year which meets the criteria of an exemption as defined in this section. Any exemption that is not identified and certified to the President of the Senate and the Speaker of the House of Representatives is not subject to legislative review and repeal under this section. If the division fails to certify an exemption that it subsequently determines should have been certified, it shall include the exemption in the following year's certification after that determination.

(e) The term "exemption" means a provision of the Florida Statutes which creates an exception to s. 119.07(1) or s. 286.011 and which applies to the executive branch of state government or to local government, but it does not include any provision of a special law or local law.

(f) An exemption that is required by federal law is not subject to repeal under this section.

(g) An exemption that applies solely to the Legislature or the State Court System is not subject to repeal under this section.

(4)(a) The Legislature shall review the exemption before its scheduled repeal and consider as part of the review process the following:

1. What specific records or meetings are affected by the exemption?

2. Whom does the exemption uniquely affect, as opposed to the general public?

3. What is the identifiable public purpose or goal of the exemption?

4. Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?

(b) An exemption may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of the following purposes and the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption:

1. Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;

2. Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. However, in exemptions under this subparagraph, only information that would identify the individuals may be exempted; or

3. Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

(c) Records made before the date of a repeal of an exemption under this section may not be made public unless otherwise provided by law. In deciding whether the records shall be made public, the Legislature shall consider whether the damage or loss to persons or entities uniquely affected by the exemption of the type specified in subparagraph (b)2. or subparagraph (b)3. would occur if the records were made public.

(d) An exemption that is created or revived and reenacted must contain uniform language that clearly states the section in the Florida Statutes from which it is exempt, s. 119.07(1) or s. 286.011. The uniform language must also provide for the maximum public access to the meetings and records as is consistent with the purpose of the exemption. An exemption that is created or substantially amended must state that the exemption is repealed at the end of 5 years and that the exemption must be reviewed by the Legislature before the scheduled date of repeal.

(e) Notwithstanding s. 768.28 or any other law, neither the state or its political subdivisions nor any other public body shall be made party to any suit in any court or incur any liability for the repeal or revival and reenactment of an exemption under this section. The failure of the Legislature to comply strictly with this section does not invalidate an otherwise valid reenactment.

Section 3. Section 286 0111, Florida Statutes, is amended to read:

286.0111 Legislative review of certain exemptions from requirements for public meetings and recordkeeping by governmental entities.—The provisions of *s. 119.15* ~~s. 119.14~~, the Open Government Sunset Review Act *of 1995*, apply to the provisions of law which provide exemptions to s. 286 011, as provided in *s. 119.15* ~~s. 119.14~~.

Section 4. Notwithstanding any provision of law to the contrary, exemptions from chapter 119, Florida Statutes, or chapter 286, Florida Statutes, which are prescribed by law and are specifically made subject to the Open Government Sunset Review Act in accordance with section 119.14, Florida Statutes, are not subject to review under that act, and are not abrogated by the operation of that act, after October 1, 1995.

Section 5. This act shall take effect October 1, 1995.

And the title is amended as follows:

On page 1, strike the entire title and insert:

An act relating to the Open Government Sunset Review Act; repealing s. 119.14, F.S., relating to periodic legislative review of exemptions from public meeting and records requirements; creating s 119.15, F.S.; creating the Open Government Sunset Review Act of 1995; providing legislative intent with respect to the policy of open government; providing for exemptions from the public records law or public meetings law to automatically expire within a specified period unless reenacted by the Legislature; providing for repeal of substantially amended exemptions; requir-

ing the Division of Statutory Revision of the Joint Legislative Management Committee to certify citations for exemptions scheduled for repeal; specifying certain exemptions that are not subject to repeal; providing requirements for the Legislature in reviewing exemptions scheduled for repeal; requiring that exemptions contain uniform language; providing a limitation on liability for the repeal or reenactment of an exemption; providing that noncompliance by the Legislature does not invalidate a valid reenactment; amending s. 286.0111, F.S.; conforming cross-references to changes made by the act; providing that exemptions from the public meeting and records requirements are not abrogated by the repeal of s. 119.14, F.S.; providing an effective date.

On motion by Senator Harden, the Senate concurred in the House amendment.

CS for SB 874 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 932 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 932—A bill to be entitled An act relating to animals; amending s. 534.021, F.S.; authorizing the Department of Agriculture and Consumer Services to record a livestock mark or brand for statewide use; amending s. 534.041, F.S.; requiring the department to make notification of renewal of a registered mark or brand at an earlier time; deleting obsolete transition provisions; transferring, renumbering, and amending s. 585.69, F.S.; removing the requirement for a standardized rabies vaccination certificate for certain dogs and cats; amending s. 616.252, F.S.; revising composition of members and terms of the Authority; providing authority to the Commissioner of Agriculture to appoint members; abolishing terms of current members with an exception; providing for an appointment of an executive director; amending s. 616.253, F.S.; deleting limitation on executive committee membership; amending s. 616.256, F.S.; revising powers of authority; amending s. 616.263, F.S.; deleting references to the Governor; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 4, line 20, through page 5, line 3, strike all of said lines and insert: veterinarian shall provide the animal's owner and the animal control authority with a rabies vaccination certificate which *must* ~~shall~~ contain, *at least* ~~but not be limited to,~~ the following information:

(a) *The license number of the administering veterinarian.* ~~A serialized certificate.~~

(b) The name, address, and phone number of the *veterinarian and* owner.

(c) The date of vaccination.

(d) The expiration date of the vaccination.

(e) The species, age, sex, color, breed, weight, and name of the animal vaccinated.

(f) The rabies vaccine manufacturer.

(g) The vaccine lot number *and expiration date.*

(h) The type and brand of vaccine used.

(i) The route of administration of the vaccine.

(j) The signature *or signature stamp* of the licensed veterinarian.

And the title is amended as follows:

On page 1, line 11, after the semicolon (;) insert: revising requirements for rabies vaccination certificates;

House Amendment 2 (with Title Amendment)—On page 5, line 20, insert:

Section 5. Subsection (7) of section 570.952, Florida Statutes, 1994 Supplement, as created by chapter 94-301, Laws of Florida, is hereby repealed.

And the title is amended as follows:

On page 1, line 15, after the semicolon (;) insert: repealing s. 570.952(7), F.S., relating to the expenditure of state funds for the Florida Agriculture Center and Horse Park;

On motions by Senator Bronson, the Senate concurred in the House amendments.

SB 932 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—35 Nays—1

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 990 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 990—A bill to be entitled An act for the relief of Jean Sadowski; providing an appropriation to compensate her for losses suffered and other damages sustained as a result of the negligence of the Department of General Services; providing an effective date.

House Amendment 1—On page 2, strike lines 29-31, and on page 3, strike lines 1-7 and insert:

Section 2. The sum of $1,546,079 is appropriated out of funds in the State Treasury to the credit of the Department of Management Services and not otherwise appropriated to be paid to Jean Sadowski, to compensate her for losses and damages suffered.

Section 3. The Comptroller is directed to draw his warrant in favor of Jean Sadowski, in the sum of $1,546,079 upon funds in the State Treasury to the credit of

On motion by Senator Jones, the Senate concurred in the House amendment.

CS for SB 990 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—34 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 1016 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1016—A bill to be entitled An act relating to water resources; amending s. 373.019, F.S.; deleting certain obsolete language; amending s. 373.414, F.S.; clarifying a provision relating to certain declaratory statements; amending s. 373.4141, F.S.; providing procedures and timeframes for approval of certain permits; amending s. 373.4145, F.S.; clarifying that certain permits submitted in the Northwest Florida Water Management District are subject to the same grandfathering provisions which apply to the other water management districts; creating s. 373.428, F.S.; providing that certain permitted activities are subject to federal consistency review regarding the Florida Coastal Zone Management Program; amending s. 403.707, F.S.; deleting an exemption from permit requirements provided for areas limited to the disposal of construction and demolition debris and clean debris used as fill material; requiring the Department of Environmental Protection to establish a separate category for issuing permits for solid waste management facilities that accept construction and demolition debris; requiring the department to provide copies of certain applications to the affected county; authorizing the department to require the operator of a facility to provide proof of financial responsibility; authorizing the department to require the operator to

undergo training; providing for certain exceptions to the permit requirements; requiring the department to convene a technical advisory group and issue a report to the Legislature and the Governor; amending s. 373.59, F.S.; requiring all water management districts to make certain payments in lieu of taxes for district lands acquired with funds allocated from the Water Management Lands Trust Fund; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 7, line 3, through page 21, line 3, strike all of said lines and renumber subsequent subsections.

And the title is amended as follows: On page 1, line 17, after "Program;" through page 2, line 5, strike all of said lines and insert: amending s. 373.59, F.S.;

House Amendment 2—On page 7, between lines 2 and 3, insert:

Section 6. Effective July 1, 1995, section 403.707, Florida Statutes, 1994 Supplement, is amended to read:

403.707 Permits.—

(1) *A* ~~No~~ solid waste management facility may *not* be operated, maintained, constructed, expanded, modified, or closed without an appropriate and currently valid permit issued by the department. ~~Effective October 1, 1989,~~ Solid waste construction permits issued under this section may include any permit conditions necessary to achieve compliance with the recycling requirements of this act. The department shall pursue reasonable timeframes for closure and construction requirements, considering pending federal requirements and implementation costs to the permittee. The department shall adopt a rule establishing performance standards for construction and closure of solid waste management facilities. The standards *must* ~~shall~~ allow flexibility in design and consideration for site-specific characteristics.

(2) Except as provided in s. 403.722(6), *a* ~~no~~ permit *is not required* under this section ~~is required~~ for the following, *if* ~~provided~~ no public nuisance or any condition adversely affecting the environment or public health is created and the activity does not violate other state or local laws, ordinances, rules, regulations, or orders:

(a) Disposal by persons of solid waste resulting from their own activities on their own property, *if the* ~~provided such~~ waste is either from their residential property or is rocks, soils, trees, tree remains, and other vegetative matter *that* ~~which~~ normally result from land development operations.

(b) Storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, or property subject to a homeowners or maintenance association for which the person contributes association assessments, if the solid waste in such containers is collected at least once a week.

(c) Disposal by persons of solid waste resulting from their own activities on their property, *if* ~~provided~~ the environmental effects of such disposal on groundwater and surface waters are:

1. Addressed or authorized by a site certification order issued under part II of this chapter or a permit issued by the department pursuant to this chapter or rules adopted pursuant thereto; or

2. Addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the department.

~~(d) Solid waste disposal areas limited solely to the disposal of construction and demolition debris, provided that all such areas must be covered, graded, and vegetated as necessary when disposal is completed. For situations where the department determines that additional regulation of offsite disposal is appropriate, the department shall, by December 31, 1988, initiate rulemaking to provide for a general permit pursuant to s. 403.814 for disposal of construction and demolition debris for offsite disposal areas. The department shall not require the applicant to publish the notice described in s. 403.814(3). The exemption under this paragraph is superseded by such general permit 90 days after implementing rules become effective, and shall remain superseded so long as these rules remain in effect. The department is authorized to delegate its authority under this paragraph to local governments where appropriate. Such general permit shall include, at a minimum, the following requirements:~~

~~1. Public access to the disposal site is controlled through fencing or other appropriate means until the site is closed as provided for in subparagraph 4.~~

~~2. Provisions must be made for proper disposal of solid waste which is not construction and demolition debris.~~

~~3. The department must have been advised of the location of the site and must have been given permission to inspect the site during normal business hours.~~

~~4. Provisions must be made for final cover, grading, and vegetation to prevent erosion.~~

(d)~~(e)~~ Disposal by persons of solid waste resulting from their own activities on their own property, provided that such disposal occurred prior to October 1, 1988.

(e)~~(f)~~ Disposal of solid waste resulting from normal farming operations as defined by department rule. Polyethylene agricultural plastic, damaged, nonsalvageable, untreated wood pallets, and packing material that cannot be feasibly recycled, which are used in connection with agricultural operations related to the growing, harvesting, or maintenance of crops, may be disposed of by open burning, *if* ~~provided that~~ no public nuisance or any condition adversely affecting the environment or the public health is created thereby and ~~that~~ state or federal ambient air quality standards are not violated.

(f)~~(g)~~ The use of clean debris as fill material in any area. However, this paragraph does not exempt any person from obtaining a dredge and fill permit from the department, nor does it affect a person's responsibility to dispose of clean debris in permitted areas if it is not to be used as fill material.

(g)~~(h)~~ Compost operations that produce less than 50 cubic yards of compost per year when the compost produced is used on the property where the compost operation is located.

(3) All applicable provisions of ss. 403.087 and 403.088, relating to permits, apply to the control of solid waste management facilities.

(4) When application for a construction permit for a Class I or Class II solid waste disposal area, *or a construction and demolition debris disposal area,* is made, ~~it is~~ the ~~duty of the~~ department *shall* ~~to~~ provide a copy of the application, within 7 days after filing, to the water management district *and to the county* having jurisdiction where the area is to be located. The water management district *and the county* may prepare ~~an~~ advisory *reports* ~~report~~ as to the impact on water *and other* resources. *These reports* ~~This report~~ shall contain the district's *and county's* recommendations as to the disposition of the application and shall be submitted to the department no later than 30 days prior to the deadline for final agency action by the department. However, the failure of the department, ~~or~~ the water management district, *or the county* to comply with ~~the provisions of~~ this subsection shall not be the basis for the denial, revocation, or remand of any permit or order issued by the department.

(5) The department may not issue a construction permit pursuant to this part for a new solid waste landfill within 3,000 feet of Class I surface waters.

(6) The department may issue a construction permit pursuant to this part only to a solid waste management facility that provides the conditions necessary to control the safe movement of wastes or waste constituents into surface or ground waters or the atmosphere and that will be operated, maintained, and closed by qualified and properly trained personnel. Such facility must, if necessary:

(a) Use natural or artificial barriers *that* ~~which~~ are capable of controlling lateral or vertical movement of wastes or waste constituents into surface or ground waters.

(b) Have a foundation or base that is capable of providing support for structures and waste deposits and capable of preventing foundation or base failure due to settlement, compression, or uplift.

(c) Provide for the most economically feasible, cost-effective, and environmentally safe control of leachate, gas, stormwater, and disease vectors and prevent the endangerment of public health and the environment.

Open fires, air-curtain incinerators, or trench burning may not be used as a means of disposal at a solid waste management facility, unless permitted by the department under s. 403.087.

(7) Prior to application for a construction permit, an applicant shall designate to the department temporary backup disposal areas or pro-

cesses for the resource recovery facility. Failure to designate temporary backup disposal areas or processes shall result in a denial of the construction permit.

(8) Any person who transports biomedical waste within the state must register with the department prior to engaging in the transport of biomedical waste.

(9) The department may refuse to issue a permit to an applicant who by past conduct in this state has repeatedly violated pertinent statutes, rules, or orders or permit terms or conditions relating to any solid waste management facility and who is deemed to be irresponsible as defined by department rule. For the purposes of this subsection, an applicant includes the owner or operator of the facility, or if the owner or operator is a business entity, a parent of a subsidiary corporation, a partner, a corporate officer or director, or a stockholder holding more than 50 percent of the stock of the corporation.

(10) On the same day of filing with the department of an application for any construction or renovation permit for the treatment of biomedical waste, other than a general permit, which the department may require by rule, the applicant shall notify each city and county within 1 mile of the facility of the filing of the application and shall publish notice of the filing of the application. The applicant shall publish a second notice of the filing within 14 days after the date of filing. Each notice shall be published in a newspaper of general circulation in the county in which the facility is located or is proposed to be located. Notwithstanding ~~the provisions of~~ chapter 50, for purposes of this section, a "newspaper of general circulation" *means* ~~shall be~~ the newspaper within the county in which the installation or facility is proposed, which has the largest daily circulation in that county, and has its principal office in that county. If the newspaper with the largest daily circulation has its principal office outside the county, the notice *must* ~~shall~~ appear in both the newspaper with the largest daily circulation in that county, and a newspaper authorized to publish legal notices in that county. The notice *must* ~~shall~~ contain:

(a) The name of the applicant and a brief description of the facility and its location.

(b) The location of the application file and when it is available for public inspection.

The notice shall be prepared by the applicant and *must* ~~shall~~ comply with the following format:

Notice of Application

The Department of Environmental Protection announces receipt of an application for a permit from (name of applicant) to (brief description of project). This proposed project will be located at (location) in (county) (city)

This application is being processed and is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at (name and address of office).

(11) A permit, other than a general permit, which the department may require by rule, for the treatment of biomedical waste, may not be transferred by the permittee to any other entity, except in conformity with the requirements of this subsection.

(a) Within 30 days after the sale or legal transfer of a permitted facility, the permittee shall file with the department an application for transfer of the permits on such form as the department *establishes* ~~shall establish~~ by rule. The form must be completed with the notarized signatures of both the transferring permittee and the proposed permittee.

(b) The department shall approve the transfer of a permit unless it determines that the proposed permittee has not provided reasonable assurances that the proposed permittee has the administrative, technical, and financial capability to properly satisfy the requirements and conditions of the permit, as determined by department rule. The determination *is* ~~shall be~~ limited solely to the ability of the proposed permittee to comply with the conditions of the existing permit, and it *does* ~~shall~~ not concern the adequacy of the permit conditions. If the department proposes to deny the transfer, it shall provide both the transferring permittee and the proposed permittee a written objection to such transfer together with notice of a right to request a proceeding on such determination under chapter 120.

(c) Within 90 days after receiving a properly completed application for transfer of a permit, the department shall issue a final determination. The department may toll the time for making a determination on the transfer by notifying both the transferring permittee and the proposed permittee that additional information is required to adequately review the transfer request. Such notification shall be provided within 30 days after receipt of an application for transfer of the permit, completed pursuant to paragraph (a). If the department fails to take action to approve or deny the transfer within 90 days after receipt of the completed application or within 90 days after receipt of the last item of timely requested additional information, the transfer *is* ~~shall be~~ deemed approved.

(d) The transferring permittee is encouraged to apply for a permit transfer well in advance of the sale or legal transfer of a permitted facility. However, the transfer of the permit *is* ~~shall~~ not ~~be~~ effective prior to the sale or legal transfer of the facility.

(e) Until the transfer of the permit is approved by the department, the transferring permittee and any other person constructing, operating, or maintaining the permitted facility *is* ~~shall be~~ liable for compliance with the terms of the permit. ~~Nothing in~~ This section *does not* ~~shall~~ relieve the transferring permittee of liability for corrective actions that may be required as a result of any violations occurring prior to the legal transfer of the permit.

(12) The department shall, by rule, establish at least one separate category for issuing permits to solid waste management facilities that receive only solid waste that is not expected to produce leachate which, if discharged, could reasonably be expected to result in violations of the department's water quality standards or criteria. This category must include facilities that accept only construction and demolition debris, or construction and demolition debris mixed with yard trash, paper, plastics, cardboard, glass, furniture other than appliances, waste tires, and other similar materials. The department shall impose design, operation, monitoring, and closure requirements that are necessary to minimize the adverse effects on the environment posed by such a facility. However, the department may not require the facility to install a liner or leachate-collection system unless it determines, on a case-by-case basis, that such features are necessary to protect the public health and the environment due to site-specific considerations. The department may, by rule, exempt a facility from all or some of the requirements of ss. 403.708(14)(c), 403.7125, and 403.716. The department is encouraged to establish permitting procedures that allow and promote recycling at a facility permitted under this subsection. Any rule proposed by the department pursuant to this subsection which regulates solid waste management facilities that accept construction and demolition debris shall be developed no later than November 1, 1995, and shall not take effect until ratified by the Legislature.

(a) In considering whether a liner or leachate-collection system is required at a facility, the department shall consider:

1. Geological or hydrogeological conditions at the site which allow direct discharge of leachate to an aquifer that may be used as a source of drinking water;

2. Proximity to existing or planned drinking water systems;

3. Proximity of surface waters that could be impacted by a leachate discharge;

4. The planned size and final elevation of the disposal area; and

5. Any history of violations of department rules by the owner or operator of the site which create the reasonable expectation that prohibited waste may be disposed of at the proposed facility.

(b) If the department determines by rule that the operator of the facility must provide proof of financial responsibility, the department may specify what types of financial mechanisms are appropriate and may exempt a facility from this requirement based upon size or design characteristics.

(c) If the department determines by rule that the operator of a facility must undergo training, the department may specify a training course and schedule that is different than that required for operators of other facilities. The deadlines specified in s. 403.716(3) do not apply to a facility permitted under this section.

(13) The department may, by rule, exempt from permitting requirements, or may require a general permit, for a facility that receives only

clean debris, yard trash, or similar materials. Any such exemption or general permit may be conditioned on the size or location of the facility as well as the type or amount of solid waste accepted for disposal.

(14)~~(12)~~ The department shall review all permit applications for any designated Class I solid waste disposal facility. As used in this subsection, the term "designated Class I solid waste disposal facility" means any facility that is, as of May 12, 1993, a solid waste disposal facility classified as an active Class I landfill by the department, that is located in whole or in part within 1,000 feet of the boundary of any municipality, but that is not located within any county with an approved charter or consolidated municipal government, is not located within any municipality, and is not operated by a municipality. The department shall not permit vertical expansion or horizontal expansion of any designated Class I solid waste disposal facility unless the application for such permit was filed before January 1, 1993, and *a* ~~no~~ solid waste management facility may *not* be operated which is a vertical expansion or horizontal expansion of a designated Class I solid waste disposal facility. As used in this subsection, the term "vertical expansion" means any activity that will result in an increase in the height of a designated Class I solid waste disposal facility above 100 feet National Geodetic Vertical Datum, except solely for closure, and the term "horizontal expansion" means any activity that will result in an increase in the ground area covered by a designated Class I solid waste disposal facility, or if within 1 mile of a designated Class I solid waste disposal facility, any new or expanded operation of any solid waste disposal facility or area, or of incineration of solid waste, or of storage of solid waste for more than 1 year, or of composting of solid waste other than yard trash.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, line 17 after "Program" insert: amending s. 403.707, F.S.; deleting an exemption from solid waste management facility permit requirements provided for areas limited to the disposal of construction and demolition debris; requiring the Department of Environmental Protection to establish a separate category for issuing permits for solid waste management facilities that accept construction and demolition debris; requiring the department to provide copies of certain applications to the affected county; requiring the department to adopt rules; providing for legislative approval of rules; authorizing the department to require the operator of a facility to provide proof of financial responsibility; authorizing the department to require the operator to undergo training; providing for certain exceptions to the permit requirements;

House Amendment 3 (with Title Amendment)—On page 5, between lines 28 and 29, insert:

Section 4. *Any person who, as a result of the winter storm of March 13, 1993, which was the subject of Presidential Disaster Declaration 982DR/FL, suffered the partial destruction or total loss of a commercial business or principal or secondary place of residence and any structures appurtenant to such place of residence or business and, as of the effective date of this act, is unable to rebuild or repair such residence or business and appurtenant structures to the same design criteria and standards which governed the original design and construction of such residence or business and appurtenant structures due to requirements imposed by the Department of Environmental Protection pursuant to sections 161.052, 253.12, 253.1221, 253.77, 373.414(9), 373.422, 403.811, 403.813, and 403.814, Florida Statutes, is exempt from such requirements to the extent necessary to enable such person to rebuild or repair such residence or business and appurtenant structures. Local building code ordinances not affecting participation in the National Flood Insurance Program shall be applicable to persons seeking to rebuild or repair structures under this act only to the extent those codes allow rebuilding of the structure as it existed prior to March 13, 1993. However, local flood damage prevention ordinances and compliance with the minimum National Flood Insurance Program regulations as found in 44 CFR Parts 59 and 60 shall apply The rule and permit requirements of the Department of Health and Rehabilitative Services, pursuant to sections 381.0065, 381.00655, and 381.0066, Florida Statutes, shall be varied to the extent necessary to enable such person to rebuild or repair such residence or business and appurtenant structures, provided such variance does not create a sanitary nuisance.*

And the title is amended as follows:

On page 1, line 8, after the semicolon (;) insert: exempting certain persons from certain requirements of the Department of Environmental Protection; providing applicability of local codes; providing for compliance with National Flood Insurance Program regulations; providing variance of septic tank rules and regulations under certain circumstances;

On motions by Senator Bronson, the Senate concurred in the House amendments.

SB 1016 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—2

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 1046 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1046—A bill to be entitled An act relating to financial responsibility with respect to the operation of motor vehicles; amending s. 324.201, F.S.; amending the circumstances in which a law enforcement officer may seize the license plate of a motor vehicle; creating s. 324.032, F.S.; providing for manner of proving financial responsibility; providing an effective date.

House Amendment 2—On page 2, strike all of lines 6-22 and insert:

(2) Complying with the provisions of s. 324.171, such compliance to be demonstrated by maintaining at its principal place of business an audited financial statement, prepared in accordance with generally accepted accounting principles, and providing to the department a certification issued by a certified public accountant that the applicant's net worth is at least equal to the requirements of s. 324.171 as determined by the Department of Insurance, including claims liabilities in an amount certified as adequate by a Fellow of the Casualty Actuarial Society.

Upon request by the department, the applicant must provide the department at the applicant's principal place of business in this state access to the applicant's underlying financial information and financial statements that provide the basis of the certified public accountant's certification. The applicant shall reimburse the requesting department for all reasonable costs incurred by it in reviewing the supporting information. The maximum amount of self-insurance permissible under this subsection is $100,000 and must be stated on a per-occurrence basis and the applicant shall maintain adequate excess insurance issued by an authorized or eligible insurer licensed or approved by the Department of Insurance. All risks self-insured shall remain with the owner or lessee providing it, and the risks are not transferrable to any other person, unless a policy complying with subsection (1) is obtained.

On motion by Senator Dyer, the Senate concurred in the House amendment.

CS for SB 1046 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 1378 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1378—A bill to be entitled An act relating to legal and personal representation; amending s. 733.617, F.S.; providing conditions for modifying compensation; amending s. 733.6171, F.S.; changing the method of calculation and determining the amount of fees for attorneys for personal representatives; disallowing certain attorney's fees if the request for the fee is substantially unreasonable; amending s. 737.204, F.S.; adding procedures to review fees payable to trustees and other employees in trust administration; providing for notice; creating s. 737.2041, F.S.; providing for procedures to determine attorney's fees in trust administrations simi-

lar to the procedure and rate structure in probate; amending s. 689.075, F.S.; providing that a trust is not invalid because the settlor is the sole trustee if the trust instrument meets the execution requirements for express trusts; amending s. 731.201, F.S.; providing that a trustee is an interested person in the administration of the grantor's estate; amending s. 733.212, F.S.; providing for service of notice of administration on certain people; amending s. 733.306, F.S.; limiting the period for bringing a claim or cause of action against certain types of trusts, trustees, or beneficiaries; amending s. 733.607, F.S.; providing for payments from a trustee of a trust to the personal representative of a decedent's estate under certain conditions; amending 733.707, F.S.; providing liability of certain trusts for payment of the expenses of administration of a deceased's estate and of claims of creditors against a deceased's estate to the extent that the estate is insufficient to pay them; creating s. 737.111, F.S.; providing execution requirements for express trusts; amending s. 737.303, F.S.; prescribing a trustee's duty to account for the administration of a trust to certain defined beneficiaries; creating s. 737.3054, F.S.; providing a trustee's duty to pay expenses and obligations of a settlor's estate; creating s. 737.308, F.S.; providing for notice of trust; providing powers of trustees; amending s. 737.403, F.S.; providing for certain court-authorized transactions by a trustee; amending s. 709.08, F.S.; providing for the creation of a durable power of attorney; providing who may serve as attorney in fact; providing for the effect of delegation, revocation, or filing of petition to determine incapacity; providing for conflict between durable power of attorney and health care advance directive; providing for protection without notice, good-faith acts, and affidavits; providing for notice; providing for property subject to durable power of attorney; providing for powers of the attorney in fact and providing limitations; providing for standard of care; providing when joint action is required with respect to multiple attorneys in fact; providing additional powers; providing for damages and costs; providing for application; providing for partial invalidity; creating s. 733.6121, F.S.; granting to a personal representative specified powers that the personal representative may exercise without court authorization, unless otherwise provided by the court or by the decedent's will, in relation to environmental and contamination problems concerning property held or to be held by the personal representative; prescribing the liability of a personal representative in such matters; prescribing applicability; creating s. 737.4025, F.S.; granting to a trustee specified powers that the trustee may exercise without court authorization, unless otherwise provided in the trust instrument, in relation to environmental and contamination problems concerning property held or to be held by the trustee; prescribing the liability of a trustee in such matters; prescribing applicability; amending s. 28.223, F.S.; requiring the clerks of the circuit court to record orders of guardianship; 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. 744.3201, F.S.; requiring a copy of the petition for appointment of guardian at the time the petition to determine incapacity is filed; 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. 744.3725, F.S.; providing a condition for grant of authority to a guardian; amending s. 744.471, F.S.; providing that successor guardians shall be governed by the laws concerning guardianships; amending s. 744.703, F.S.; providing for appointment and qualifications of public guardians; amending s. 733.604, F.S.; providing for explanation of inventory value of assets; amending s. 733.901, F.S.; providing for waiver of right to a final accounting; amending s. 744.351, F.S.; providing that the surety bond filed by guardians must secure the value of certain intangible assets owned by the ward; repealing a provision that exempts corporate guardians from posting the surety bond; exempting financial institutions from posting the surety bond; repealing s. 737.3056, F.S., relating to a trustee's duty to pay expenses of a settlor's estate; repealing s. 737.3057, F.S., relating to a trustee's duty to notice creditors; providing effective dates.

House Amendment 1—On page 55, between lines 11 and 12, insert:

Section 31. Section 744.639, Florida Statutes, is amended to read:

744.639 Attorney's fee.—The fee for the attorney filing the petition and conducting the proceedings shall be fixed by the court in an amount as small as reasonably possible, not to exceed $250. *However, this section is not to be interpreted to exclude a petition for extraordinary attorney's fees, properly filed, and if approved by the Veteran's Administration, does not necessitate a hearing before the court for approval, but the court shall enter its order for withdrawal of said attorney's fees from the ward's guardianship account accordingly.*

Section 32. Section 744.641, Florida Statutes, is amended to read:

744.641 Guardian's compensation; bond premiums.—The amount of compensation payable to a guardian shall not exceed 5 percent of the income of the ward during any year *and may be taken, by the guardian, on a monthly basis.* In the event of extraordinary services rendered by such guardian, the court may, upon petition and after hearing on the petition, authorize additional compensation for the extraordinary services, payable from the estate of the ward. *Provided that extraordinary services approved by the Veteran's Administration do not require a court hearing for approval of the fees, but shall require an order authorizing the guardian to withdraw the amount from the guardianship account.* ~~Notice of such petition and hearing shall be given to the proper office of the United States Department of Veterans Affairs in the manner provided in s. 744.607.~~ No compensation shall be allowed on the corpus of an estate received from a preceding guardian. The guardian may be allowed from the estate of his ward reasonable premiums paid by the guardian to any corporate surety upon the guardian's bond.

Section 33. Subsection (1) of section 744.202, Florida Statutes, is amended to read:

744.202 Venue.—

(1) The venue in proceedings for declaration of incapacity shall be where the alleged incapacitated person resides or is found. *The provisions of this section do not apply to veterans.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 4, line 25, after the semicolon (;) insert: amending s. 744.639, F.S.; revising language with respect to attorney's fees; amending s. 744.641, F.S.; providing that extraordinary services approved by the Veteran's Administration do not require a court hearing for approval; amending s. 744.202, F.S.; providing that certain venue provisions do not apply to veterans;

House Amendment 2 (with Title Amendment)—On page 55, between lines 11 and 12, insert:

Section 31. Subsection (1) of section 741.07, Florida Statutes, is amended to read:

741.07 Persons authorized to solemnize matrimony.—

(1) All regularly ordained ministers of the gospel or elders in communion with some church, or other ordained clergy, and all judicial officers, *including retired judicial officers,* clerks of the circuit courts, and notaries public of this state may solemnize the rights of matrimonial contract, under the regulations prescribed by law. Nothing in this section shall make invalid a marriage which was solemnized by any member of the clergy, or as otherwise provided by law prior to July 1, 1978.

(Renumber subsequent section.)

And the title is amended as follows:

On page 4, line 25, after the semicolon (;) insert: amending s. 741.07, F.S., relating to persons authorized to solomnize matrimony; including retired judical officers;

House Amendment 3—On page 23, line 1, through page 24, line 12, strike all of said lines and insert:

(3) *Any portion of a trust with respect to which a decedent who is the grantor has at the decedent's death a right of revocation, as defined in paragraph (e)* ~~A disposition in trust for the use and benefit of the grantor of such trust to the extent the grantor of the trust has at his death the right~~, either alone or in conjunction with any other person, *is liable for* ~~to revoke the trust and revest principal in himself, is subject to~~ the expenses of the administration of the *decedent's* ~~grantor's~~ estate and ~~the~~ enforceable ~~and timely filed~~ claims of the *decedent's* ~~grantor's~~ creditors to the extent the *decedent's estate is* ~~grantor's assets subject to probate administration are~~ insufficient *to pay them as provided in s. 733.607(2)* ~~for their satisfaction~~.

(a) For purposes of this subsection, *any* ~~all~~ trusts established as part of, and all payments from, either an employee annuity described in s. 403 of the Internal Revenue Code of 1986, as amended, an Individual Retirement Account, as described in s. 408 of the Internal Revenue Code of 1986, as amended, a Keogh (HR-10) Plan, or a retirement or other plan

established by a corporation which is qualified under s. 401 of the Internal Revenue Code of 1986, as amended, shall not be considered a *trust over which the decedent has a right of revocation* ~~disposition in trust for the use and benefit of the grantor~~.

(b) For purposes of this subsection, any trust described in s. 644 of the Internal Revenue Code of 1986, as amended, shall not be considered a trust over which the decedent has a right of revocation.

(c)~~(b)~~ This subsection shall not impair any rights an individual has under a qualified domestic relations order as that term is defined in s. 414(p) of the Internal Revenue Code of 1986, as amended.

(d)~~(c)~~ For purposes of this subsection, property held or received by a trust to the extent that *the* ~~said~~ property would not have been subject to claims against the *decedent's* ~~grantor's~~ estate if it had been paid directly to a trust created under the *decedent's* ~~grantor's~~ will or other than to the *decedent's* ~~grantor's~~ estate, or assets received from any trust other than a trust described in this subsection, shall not be deemed assets of the trust available for the payment of the expenses of administration of and enforceable ~~and timely filed~~ claims against the *decedent's* ~~grantor's~~ estate.

(e) For purposes of this subsection, a right of revocation is a power retained by the decedent, held in any capacity:

1. To amend or revoke the trust and revest principal of the trust in the decedent; or

2. To withdraw or appoint principal of the trust to or for the decedent's benefit.

House Amendment 4—On page 29, lines 29 through 30, strike "pursuant to a disclaimer,"

House Amendment 5—On page 19, line 24, through page 24, line 12, strike all of said lines and insert:

(1) A trust which is otherwise valid *and which complies with s. 737.111*, including, but not limited to, a trust the principal of which is composed of real property, intangible personal property, tangible personal property, the possible expectancy of receiving as a named beneficiary death benefits as described in s. 733.808, or any combination thereof, and which has been created by a written instrument shall not be held invalid or an attempted testamentary disposition for any one or more of the following reasons:

(g) Because the settlor is, at the time of the execution of the instrument, or thereafter becomes, sole trustee~~; provided that at the time the trust instrument is executed it is either valid under the laws of the jurisdiction in which it is executed or it is executed in accordance with the formalities for the execution of wills required in such jurisdiction~~.

Section 6. Subsection (21) of section 731.201, Florida Statutes, is amended to read:

731.201 General definitions.—Subject to additional definitions in subsequent chapters that are applicable to specific chapters or parts, and unless the context otherwise requires, in this code and chapters 737, 738, and 744:

(21) "Interested person" means any person who may reasonably be expected to be affected by the outcome of the particular proceeding involved. In any proceeding affecting the estate or the rights of a beneficiary in the estate, the personal representative of the estate shall be deemed to be an interested person. In any proceeding affecting the expenses of the administration of the estate, or any claims described in s. 733.702(1), the trustee of a trust described in s. 733.707(3) is an interested person *in the administration of the grantor's estate*. The term does not include an heir at law or a devisee who has received his distribution. The meaning, as it relates to particular persons, may vary from time to time and must be determined according to the particular purpose of, and matter involved in, any proceedings.

Section 7. Effective October 1, 1995, and applicable to decedents who die after September 30, 1995, subsection (3) of section 733.212, Florida Statutes, is amended to read:

733.212 Notice of administration; filing of objections and claims.—

(3) The personal representative shall serve a copy of the notice on the *following persons who are known to the personal representative:*

(a) The decedent's surviving spouse*;* ~~of the decedent and all~~

(b) Beneficiaries*;* ~~known to the personal representative~~ and

(c) The trustee of any trust described in s. 733.707(3), *of which the decedent was grantor*

in the manner provided for service of formal notice, unless served under s. 733.2123. The personal representative may similarly serve a copy of the notice on any devisees under a known prior will or heirs.

Section 8. Effective October 1, 1995, and applying to decedents who die after September 30, 1995, subsection (4) is added to section 737.306, Florida Statutes, to read:

737.306 Personal liability of trustee.—

(4)(a) Two years after the death of a settlor, neither a trust described in s. 733.707(3) as established by the settlor, the trustee of the trust, nor any beneficiary may be held liable for any claim or cause of action against the settlor by a creditor who seeks to recover from the trust, trustee, or beneficiary.

(b) This subsection does not apply to a creditor who has timely filed a claim against the settlor's estate under s. 733.702 within 2 years after the settlor's death and whose claim has not been paid or otherwise disposed of, even if the settlor's estate proceedings have been closed or otherwise completed.

(c) This subsection does not affect the lien of a duly recorded mortgage or security interest or the right to foreclose and enforce the mortgage or lien.

Section 9. Effective October 1, 1995, and applying to decedents who die after September 30, 1995, subsection (2) of section 733.607, Florida Statutes, is amended to read:

733.607 Possession of estate.—

(2) *If, after providing for statutory entitlements and all devises other than residuary devises,* ~~To the extent~~ the assets of the *decedent's* ~~grantor's~~ estate are insufficient to pay the expenses of ~~the~~ administration of the *decedent's* ~~grantor's~~ estate and enforceable ~~and timely filed~~ claims of the *decedent's* ~~grantor's~~ creditors, the personal representative *is* ~~shall be~~ entitled to ~~seek such~~ payment from the trustee of a trust described in s. 733.707(3), *in* ~~upon whom a copy of the notice of administration has been served of such sum or sums as~~ the *amount* the personal representative *certifies* ~~shall certify~~ in writing to be required to satisfy such insufficiency.

Section 10. Subsection (3) of section 733.707, Florida Statutes, is amended to read:

733.707 Order of payment of expenses and obligations.—

(3) *Any portion of a trust with respect to which a decedent who is the grantor has at the decedent's death a right of revocation, as defined in paragraph (c)* ~~A disposition in trust for the use and benefit of the grantor of such trust to the extent the grantor of the trust has at his death the right~~, either alone or in conjunction with any other person, *is liable for* ~~to revoke the trust and revest principal in himself, is subject to~~ the expenses of the administration of the *decedent's* ~~grantor's~~ estate and ~~the~~ enforceable ~~and timely filed~~ claims of the *decedent's* ~~grantor's~~ creditors to the extent the *decedent's estate is* ~~grantor's assets subject to probate administration are~~ insufficient *to pay them as provided in s. 733.607(2)* ~~for their satisfaction~~.

(a) For purposes of this subsection, *any* ~~all~~ trusts established as part of, and all payments from, either an employee annuity described in s. 403 of the Internal Revenue Code of 1986, as amended, an Individual Retirement Account, as described in s. 408 of the Internal Revenue Code of 1986, as amended, a Keogh (HR-10) Plan, or a retirement or other plan established by a corporation which is qualified under s. 401 of the Internal Revenue Code of 1986, as amended, shall not be considered a *trust over which the decedent has a right of revocation* ~~disposition in trust for the use and benefit of the grantor~~.

(b) For purposes of this subsection, any trust described in s. 664 of the Internal Revenue Code of 1986, as amended, shall not be considered a trust over which the decedent has a right of revocation.

(c)~~(b)~~ This subsection shall not impair any rights an individual has under a qualified domestic relations order as that term is defined in s. 414(p) of the Internal Revenue Code of 1986, as amended.

(d)~~(c)~~ For purposes of this subsection, property held or received by a trust to the extent that *the* ~~said~~ property would not have been subject to claims against the *decedent's* ~~grantor's~~ estate if it had been paid directly to a trust created under the *decedent's* ~~grantor's~~ will or other than to the *decedent's* ~~grantor's~~ estate, or assets received from any trust other than a trust described in this subsection, shall not be deemed assets of the trust available for the payment of the expenses of administration of and enforceable ~~and timely filed~~ claims against the *decedent's* ~~grantor's~~ estate.

House Amendment 6 (with Title Amendment)—On page 55, between lines 17 and 18, insert:

Section 33. Short title.—Sections 33 through 38 of this act may be cited as the "Child Performer and Athlete Protection Act."

Section 34. Legislative purpose.—The purposes of this act are:

(1) To ensure that the earnings of minors are protected.

(2) To ensure that the minor's contracts are fair and equitable.

(3) To provide for the removal of nonage disability for contracts approved under this act.

Section 35. Legislative intent.—The Legislature recognizes that performers and athletes frequently begin careers at an early age, that the employment of minors as performers and athletes is greatly expanding in the state, and that the common law rule provides that the earnings of the minor are the property of the parents, not the minor. Therefore, it is the intent of the Legislature to provide protection for the minor, when entering into a contract, to allow the minor to retain the earnings received under the contract and to provide assurances and procedures to those persons entering into contracts with minor performers and athletes.

Section 36. Section 743.08, Florida Statutes, is created to read:

743.08 Removal of disabilities of minors; artistic or creative services; professional sports contracts; judicial approval.—

(1) A contract made by a minor or made by a parent or guardian of a minor, or a contract proposed to be so made, may be approved by the probate division of the circuit court or any other division of the circuit court that has guardianship jurisdiction, where the minor is a resident of this state or the services of the minor are to be performed or rendered in this state, where the contract sought to be approved is one under which:

(a) The minor is to perform or render artistic or creative services, including, but not limited to, services as an actor, actress, dancer, musician, vocalist, model, stunt person, conductor, or other performing artist.

(b) The minor is to render services as a participant or player in professional athletics or semiprofessional athletics, including, but not limited to, track and field, surfing, sailing, diving, boxing, gymnastics, ice skating, wrestling, bicyling, soccer, horse racing, motocross, softball, baseball, football, hockey, basketball, tennis, golf, and jai alai.

(c) The minor will endorse a product or service, or in any other way receive compensation for the use of right of publicity of the minor as that right is defined by s. 540.08.

(d) The minor agrees to purchase, sell, lease, license, transfer, or otherwise exploit literary, musical, or dramatic properties, whether tangible or intangible, or any rights therein for use in motion pictures, television, the production of phonorecords, the legitimate or living stage, or otherwise in the entertainment field.

(e) A person is employed to receive compensation from the minor for services to the minor in connection with such performing or athletic services of the minor such as a coach, manager, agent, trainer, or otherwise to represent or advise the minor in connection with contracts therefor.

(2) Approval under this section may be sought for a contract or agreement that is already in existence and under which the parties are currently performing.

(3)(a) If a contract described by subsection (1) is so approved by the circuit court pursuant to the requirements of this section and the requirements of ss. 743.09, 743.095, and chapter 744, the minor may not, either during his or her minority or upon reaching his or her majority, disaffirm the contract on the ground of minority or assert that the parent or guardian lacked authority to make the contract. A contract modified, amended, or assigned after its approval under this section shall be deemed a new contract.

(b) If a contract described by subsection (1) is so approved, all earnings, royalties, or other compensation earned or received by the minor pursuant to said approved contract shall become the property of the minor, subject to the provisions of ss. 743.09, 743.095, and chapter 744.

(4)(a) Approval of the contract pursuant to this section shall not exempt any person from any other law with respect to licenses, consents, or authorizations required for any conduct, employment, use, or exhibition of the minor in this state, nor limit in any manner the discretion of the licensing authority or other persons charged with the administration of such requirements, nor dispense with any other requirement of law relating to the minor.

(b) Approval of a contract pursuant to this section does not remove the disability of nonage for any other contract with the same minor which is not approved by the court pursuant to this section, nor is the disability of nonage of the minor removed generally for the minor, nor is the minor emancipated for any other purpose or contract other than the performance of contracts approved pursuant to this section.

(c) No contract shall be approved which provides for an employment, use, or exhibition of the minor, within or without the state, which is prohibited by law and in particular by any federal or state child labor law, and could not be licensed to take place in this state.

(d) No contract shall be approved by the court:

1. Unless a written acquiescence to such contract by the parent or parents having custody, or other person having custody of the minor, is filed in the proceeding;

2. Unless written approval is given by the guardian ad litem appointed by the court in this proceeding; or

3. If the court shall find that the minor is emancipated.

(e) No contract shall be approved, if the term during which the minor is to perform or render services or during which a person is employed to render services to a minor, including any extensions thereof by option or otherwise, extends for a period of more than 3 years from the date of approval of the contract. If the contract contains any other covenant or condition which extends beyond such 3 years, the same may be approved if found to be reasonable and for such period as the court may determine.

(f) If the court which has approved a contract pursuant to this section shall find that the physical or mental well-being of the minor is being impaired by the performance thereof or in violation of any child labor law, it may, at any time during the term of the contract during which services are to be performed by the minor or rendered by or to the minor or during the term of any other covenant or condition of the contract, either revoke its approval of the contract or declare such approval revoked unless a modification of the contract which the court finds to be appropriate in the circumstances is agreed upon by the parties and the contract as modified is approved by order of the court. Application for an order pursuant to this subsection may be made by the minor, or his or her parent or parents or guardian, or by the person having the care and custody of the minor, or by a guardian ad litem appointed for the purpose by the court on its own motion. The order granting or denying the application shall be made after hearing, upon notice to the parties to the proceeding in which the contract was approved, given in such manner as the court shall direct. Revocation of the approval of the contract shall not affect any right of action existing at the date of the revocation, except that the court may determine that a refusal to perform on the ground of impairment of the well-being of the minor was justified.

Section 37. Section 743.09, Florida Statutes, is created to read:

743.09 Removal of disabilities of minors; artistic or creative services; professional sports contracts; procedure for court approval; appointment of a guardian ad litem.—

(1)(a) A proceeding for the approval of a contract described by s. 743.08 shall be commenced by verified petition by:

1. Either natural parent of the minor, or other person having custody of the minor;

2. A guardian of person or property of the minor;

3. The minor;

4. Any party to the contract sought to be approved; or

5. Any other interested person.

(b) If a guardian of the person or property of the minor has been appointed or qualified in this state, the petition shall be made to the court by which he or she was appointed or in which he or she qualified. If there is no such guardian, the petition shall be made in the circuit court, probate division, or other circuit division having guardianship jurisdiction, in the circuit where the minor resides, or if he or she is not a resident of the state, in any county in which the minor is to be employed under the contract.

(c) The following persons, other than one who is the petitioner or who joins in the petition, shall be served with the petition by formal notice as provided by the Florida Probate Rules:

1. The minor, if over the age of 14 years.

2. His or her guardian or guardians, if any, whether or not appointed or qualified in this state.

3. Each party to the contract.

4. The parent or parents of the minor.

5. Any person having the care and custody of the minor.

6. The person with whom the minor resides, if other than a parent or guardian.

(d) Formal notice shall be made at least 30 days before the time at which the petition is set to be heard, unless the court shall fix a shorter time upon cause shown.

(2) The petition shall have annexed a complete copy of the contract or proposed contract and shall set forth:

(a) The full name, residence, and date of birth of the minor.

(b) The name and residence of any living parent of the minor, the name and residence of the person who has care and custody of the minor, and the name and residence of the person with whom the minor resides.

(c) Whether the minor is a resident of the state or, if he or she is not a resident, that the petition is for approval of a contract for performance or rendering of services by the minor and the place in the state where the services are to be performed or rendered.

(d) A brief statement as to the minor's employment and compensation under the contract or proposed contract.

(e) A statement that the term of the contract during which the minor is to perform or render services or during which a person is employed to render services to the minor can in no event extend for a period of more than 3 years from the date of approval of the contract.

(f) An enumeration of any other covenants or conditions contained in the contract which extend beyond such 3 years or a statement that the contract contains no such other covenants or conditions.

(g) A schedule showing the minor's estimated gross earnings, estimated outlays, and estimated net earnings as defined in s. 743 095.

(h) The interest of the petitioner in the contract or proposed contract or in the minor's performance under it.

(i) Such other facts known by the petitioner regarding the minor and his or her family and property as show that the contract is reasonable and provident and for the best interests of the minor, including whether the minor has had at any time a guardian appointed by a court of any jurisdiction, and the facts with respect to any previous application for the relief sought or whether similar relief has been sought with respect to the minor.

(3) At any time after the filing of the petition, the court, if it deems it advisable, may appoint a guardian ad litem, pursuant to s. 744.301, to represent the interests of the minor. The court shall appoint a guardian ad litem as to any contract where the parent or guardian will receive remuneration or financial gain from the performance of the contract or has any other conflict of interest with the minor as defined by s. 744.446. The court, in determining whether a guardian ad litem should be appointed, may consider the following criteria:

(a) The length of time the exclusive services of the minor are required.

(b) Whether the gross earnings of the minor under the contract are either contingent or unknown.

(c) Whether the gross earnings of the minor under the contract are in excess of $15,000.

(4) The guardian ad litem shall be entitled to reasonable compensation. The court shall have the power to determine the amount of the reasonable compensation paid to the guardian ad litem and may determine which party shall be responsible for the fee, whether the fee shall be paid from the earnings of the minor pursuant to the contract sought to be approved, or may apportion the fee between the parties to the proceedings.

(5)(a) The minor, unless excused by the court for good cause shown, shall attend personally before the court upon the hearing of the petition.

(b) The court may, by order:

1. Determine any issue arising from the pleadings or proof and required to be determined for final disposition of the matter, including issues with respect to the age or emancipation of the minor.

2. Approve or disapprove the contract or proposed contract.

3. Approve the contract upon such conditions, with respect to modification of the terms thereof or otherwise, as it shall determine.

4. Appoint a guardian of the property to hold the earnings of the minor as provided by s. 743.095.

Section 38. Section 743.095, Florida Statutes, is created to read:

743.095 Removal of disabilities of minors; artistic or creative services; professional sports contracts; guardianship of the property.—

(1)(a) The court may withhold its approval of the contract sought to be approved under ss. 743.08 and 743.09 until the filing of a guardianship plan by the parents or legal guardian of the minor, which shall provide that a part of the minor's net earnings for services performed or rendered during the term of the contract be set aside and saved for the minor under a guardianship of the property as provided in this section, until he or she attains his or her majority or until further order of the court.

(b) The court shall fix the amount or proportion of net earnings to be set aside as it deems for the best interests of the minor, and the amount or proportion so fixed may, upon subsequent application, be modified in the discretion of the court, within the limits of the consent given at the time the contract was approved. In fixing such amount or proportion, consideration shall be given to the financial circumstances of the parent of the minor and to the needs of their other children or, if the minor has any dependents, to the needs of his or her family. If the minor has no dependents, then the court shall not require the setting aside of an amount or proportion in excess of two-thirds of the net earnings of the minor.

(c) For the purposes of this act, net earnings shall mean the gross earnings received for services performed or rendered by the minor during the term of the contract, less:

1. All sums required by law to be paid as taxes to any government or subdivision thereof with respect to or by reason of such earnings.

2. Reasonable sums to be expended for the support, care, education, coaching, training, and professional management of the minor.

3. Reasonable fees and expenses paid or to be paid in connection with the proceeding for approval, the contract, and its performance.

(d) Notwithstanding anything set forth herein, the creditors of any person, other than of the minor, shall not be entitled to the earnings of the minor.

(2)(a) If a guardian of the property of the minor has been appointed or qualified in this state, he or she shall receive and hold any net earnings directed by the court to be set aside for the minor as provided in subsection (1) and by chapter 744 governing guardians of the property. In any other case a guardian of the property shall be appointed for the purpose of holding the net earnings of the minor pursuant to the contract as directed by the court pursuant to subsection (1) and thereafter shall hold said earnings as a guardian of the property pursuant to chapter 744.

(b) A parent, guardian, or other petitioner is not ineligible to be appointed as guardian of the property or earnings of a minor derived from a contract approved pursuant to ss. 743.08 and 743.09 by reason of his or her interest in any part of the minor's earnings under the contract or proposed contract or by reason of the fact that he or she is a party to or otherwise interested in the contract or in the minor's performance under the contract, provided such interest is fully disclosed to the court.

(Renumber subsequent section.)

And the title is amended as follows:

On page 4, line 28, after the semicolon (;) insert: creating the "Child Performer and Athlete Protection Act"; providing legislative purpose; providing legislative intent; creating s. 743.08, F.S.; providing for the removal of disabilities of certain minors; providing for artistic or creative services; providing for judicial approval; creating s. 743.09, F.S.; providing for professional sports contracts; providing a procedure for court approval; providing for the appointment of a guardian ad litem; creating s. 743.095, F.S.; providing for guardianship of the property of certain minors;

On motions by Senator Grant, the Senate concurred in the House amendments.

SB 1378 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 1536 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1536—A bill to be entitled An act relating to offenses against children; creating s. 787.025, F.S.; prohibiting certain previously convicted offenders from intentionally luring or enticing, or attempting to lure or entice, a child under age 12 into a structure, dwelling, or conveyance for other than a lawful purpose; providing criminal penalties therefor; providing affirmative defenses; providing an effective date.

House Amendment 1—On page 2, strike lines 21 and 22 and insert:

Section 2. Subsections (1), (17), (40), (42), and (48) of section 39.01, Florida Statutes, 1994 Supplement, are amended to read:

39.01 Definitions.—When used in this chapter:

(1) "Abandoned" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the person responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If the efforts of such parent or legal custodian, or person primarily responsible for the child's welfare to support and communicate with the child are, in the opinion of the court, only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be abandoned. *The term "abandoned" does not include a "child in need of services" as defined in subsection (8) or a "family in need of services" as defined in subsection (23).* The incarceration of a parent, legal custodian, or person responsible for a child's welfare does not constitute a bar to a finding of abandonment.

(17) "Detention hearing" means a hearing for the court to determine if a child should be placed in temporary custody, as provided for under ss. 39.042 and 39.044, in delinquency cases, or *s. 39.402* ~~s. 39.402(4)~~, in dependency cases.

(40) "Preventive services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal guardian of the child, or the custodian of the child and to the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other supportive and rehabilitative services shall promote the child's need for a safe, continuous, stable, living environment and shall promote family autonomy and shall strengthen family life *as the first priority* whenever possible.

(42) "Reunification services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal guardian of the child, or the custodian of the child, whichever is applicable, the child, and where appropriate the foster parents of the child for the purpose of enabling a child who has been placed in foster care to return to his family at *the earliest possible* ~~an earlier~~ time ~~than would otherwise be possible and for the purpose of reducing the likelihood of a child returning to foster care~~. Social services and other supportive and rehabilitative services shall promote the child's need for a safe, continuous, stable, living environment and shall promote family autonomy and strengthen family life *as a first priority* whenever possible.

(48) "Substantial compliance" means that the circumstances which caused the placement in foster care have been *significantly* remedied to the extent that the well-being and safety of the child will not be endangered upon the child's being returned to the child's parent or guardian.

Section 3. Subsections (1) and (5) of section 39.40, Florida Statutes, are amended to read:

39.40 Procedures and jurisdiction.—

(1) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in dependency cases shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law. Parents must be informed by the court of their right to counsel in dependency proceedings at each stage of the dependency proceedings. *Parents who are unable to afford counsel and who are threatened with criminal charges based on the facts underlying the dependency petition or a permanent loss of custody of their children must be appointed counsel.*

(5) It is the intent of the Legislature that children removed from their homes be provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement, *and that placement shall be in a safe environment where drugs and alcohol are not abused. It is the further intent of the Legislature that, when children are removed from their homes, disruption to their education be minimized to the extent possible.*

Section 4. Section 39.401, Florida Statutes, is amended to read:

39.401 Taking a child alleged to be dependent into custody.—

(1) A child may *only* be taken into custody:

(a) Pursuant to an order of the circuit court issued pursuant to the provisions of this part, based upon sworn testimony, either before or after a petition is filed.

(b) By a law enforcement officer, or an authorized agent of the department, if the officer or agent has *probable cause to support a finding of* reasonable grounds *for removal* ~~to believe that the child has been abandoned, abused, or neglected, is suffering from illness or injury, or is in immediate danger from his surroundings~~ and that ~~his~~ removal is necessary to protect the child. *Reasonable grounds for removal are as follows:*

1. That the child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;

2. That the custodian of the child has materially violated a condition of placement imposed by the court; or

3. That the child has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care.

~~(c) By an authorized agent of the department when he has reasonable grounds to believe the custodian of a child under protective supervision has violated in a material way a condition of the placement imposed by the court.~~

(2) If the person taking the child into custody is not *an authorized agent of the department, that person* ~~a protective investigator, he~~ shall:

(a) Release the child to a parent, guardian, legal custodian, responsible adult approved by the court when limited to temporary emergency situations, responsible adult relative who shall be given priority consideration over a nonrelative placement, or responsible adult approved by the department; within 3 days following such release, the person taking the child into custody shall make a full written report to the ~~protective inves-~~

~~tigation office of the~~ department for cases involving allegations of abandonment, abuse, or neglect or ~~to the appropriate service unit of the local children, youth, and families office within the department for~~ other dependency cases; or

(b) Deliver the child to *an authorized agent* ~~a protective investigator~~ of the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is abandoned, abused, or neglected, *or otherwise dependent* and make a full written report to the ~~protective investigation office of the~~ department within 3 days. ~~For any other dependent child, deliver the child to the appropriate service unit of the local children, youth, and families office within the department and provide the required report to that unit office.~~

(3) If the child is taken into custody by, or is delivered to, *an authorized agent of the department, the authorized agent* ~~a protective investigator, the protective investigator~~ shall review the facts *supporting the removal with department legal staff prior to the emergency shelter hearing. The purpose of this review shall be to determine whether probable cause exists for the filing of an emergency shelter petition pursuant to s. 39.402(1). If the facts are not sufficient to support the filing of a petition, the child shall immediately be returned to the custody of the parent or legal custodian. If the facts are sufficient to support the filing of the petition, and the child has not been returned to the custody of the parent or legal custodian, the department shall file the petition and schedule a hearing pursuant to s. 39.402(1), such hearing to be held within 24 hours after the removal of the child. While awaiting the emergency shelter hearing, the authorized agent of the department may place the child in licensed shelter care or may release the child to a parent, guardian, legal custodian, responsible adult relative who shall be given priority consideration over a nonrelative placement, or responsible adult approved by the department. In addition, the department may* ~~and make such further inquiry as necessary to determine whether the child should remain in custody or be released. Unless shelter is required as provided in s. 39.402(1), the protective investigator shall:~~

~~(a) Release the child to his parent, guardian, legal custodian, a responsible adult relative who shall be given priority consideration over a nonrelative placement, or~~

~~(b) Release the child to a teacher or principal at the child's school if:~~

~~1. An abuse registry check reveals no abuse or neglect reports on the teacher or principal.~~

~~2. A local law enforcement check reveals no felony or child related offenses by the teacher or principal.~~

~~3. The teacher or principal has a positive relationship with the child and the child wishes to go with the teacher or principal; and~~

~~4. The parents agree for the child to be released to the teacher or principal for no more than 72 hours.~~

~~(c)~~ authorize placement of a housekeeper/homemaker in the home of a child alleged to be dependent until the parent or legal custodian assumes care of the child.

Section 5. Section 39.402, Florida Statutes, 1994 Supplement, is amended to read:

39.402 Placement in a shelter.—

(1) Unless ordered by the court under this chapter, a child taken into custody shall not be placed in a shelter prior to a court hearing unless *there are reasonable grounds for removal and removal is necessary to protect the child. Reasonable grounds for removal are as follows:*

(a) The child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;

(b) The custodian of the child has materially violated a condition of placement imposed by the court; or ~~such placement is required:~~

~~(a) To protect the child; or~~

(c)~~(b) Because~~ The child has no parent, legal custodian, or responsible adult relative *immediately known and available* to provide supervision and care.

(2) A child taken into custody may be placed or continued in a shelter only if one or more of the criteria in subsection (1) applies and the court has made a specific finding of fact regarding the necessity for removal of the child from the home and has made a determination that the provision of appropriate and available services will not eliminate the need for placement.

(3) Whenever a child is taken into custody, the department shall immediately notify the parents or legal custodians, shall provide the parents or legal custodians with a statement setting forth a summary of procedures involved in dependency cases, and shall notify them of their right to obtain their own attorney.

(4)~~(3)~~ If the *department* ~~protective investigator~~ determines that placement in a shelter is necessary under subsections (1) and (2), the *authorized agent of the department* ~~protective investigator~~ shall authorize placement of the child in a shelter.

(a) The parents or legal custodians of the child shall be given actual notice of the date, time, and location of the emergency shelter hearing. If the parents are outside the jurisdiction of the court, are not known, or cannot be located or refuse or evade service, they shall be given such notice as best ensures their actual knowledge of the date, time, and location of the emergency shelter hearing. The person providing or attempting to provide notice to the parents or legal custodians shall, if the parents or legal custodians are not present at the hearing, advise the court either in person or by sworn affidavit, of the attempts made to provide notice and the results of those attempts.

(b) At the emergency shelter hearing, the department must establish probable cause that reasonable grounds for removal exist and that the provision of appropriate and available services will not eliminate the need for placement.

(c) The parents or legal custodians shall be given an opportunity to be heard and to present evidence at the emergency shelter hearing. ~~; shall immediately notify the parents or legal custodians that the child was taken into custody, and shall immediately provide the parents or legal custodians with a statement setting forth a summary of procedures involved in dependency cases and notify them of their right to obtain their own attorney.~~

~~(4) If the child is alleged to be both dependent and delinquent, the protective investigator may authorize either placement in a shelter under this section or detention under s. 39.044.~~

(5)(a) The circuit court, or the county court, if previously designated by the chief judge of the circuit court for such purpose, shall hold the shelter hearing.

(b) The shelter petition filed with the court *must* ~~shall~~ address each condition required to be determined by the court in subsection *(7)* ~~(8)~~.

~~(6) The reasons for placement in a shelter provided in subsections (1) and (2) shall govern the decision of each person responsible for determining whether placement in a shelter is warranted prior to the disposition by the court.~~

(6)~~(7)~~ A child may not be removed from the home or continued out of the home pending disposition if, with the provision of appropriate and available services, including services provided in the home, the child could safely remain at home. If the child's safety and well-being are in danger, the child shall be removed from danger and continue to be removed until the danger has passed. *If the child has been removed from the home and the reasons for his removal have been remedied, the child may be returned to the home.* If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home ~~or be safely returned to the home~~, the court shall allow the child to remain in ~~or return to~~ the home ~~after making a specific finding of fact that the reasons for removal have been remedied to the extent that the child's safety and well-being will not be endangered~~.

(7)~~(8)~~(a) A child may not be held in a shelter longer than 24 hours unless an order so directing is entered by the court after *an emergency* a shelter hearing. At the *emergency* shelter hearing, the court shall appoint a guardian ad litem to represent the child unless the court finds that such representation is unnecessary. The parents or legal custodians of the child shall be given such notice as best ensures their actual knowledge of the time and place of the hearing and shall be given an opportunity to be heard and to present evidence at the *emergency shelter* hearing.

(b) The order for placement of a child in shelter care must identify the parties present at the hearing and must contain written findings:

1. That placement in shelter care is necessary based on the criteria in subsections (1) and (2).

2. That placement in shelter care is in the best interest of the child.

3. That continuation of the child in the home is contrary to the welfare of the child because the home situation presents a substantial and immediate danger to the child which cannot be mitigated by the provision of preventive services.

4. That based upon the allegations of the petition for placement in shelter care, there is probable cause to believe that the child is dependent.

5. That the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home. A finding of reasonable effort by the department to prevent or eliminate the need for removal may be made and the department is deemed to have made reasonable efforts to prevent or eliminate the need for removal if:

a. The first contact of the department with the family occurs during an emergency.

b. The appraisal of the home situation by the department indicates that the home situation presents a substantial and immediate danger to the child which cannot be mitigated by the provision of preventive services.

c. The child cannot safely remain at home, either because there are no preventive services that can ensure the safety of the child or because, even with appropriate and available services being provided, the safety of the child cannot be ensured.

(c) The failure to provide notice to a party or participant *does* ~~shall~~ not *invalidate* ~~affect the validity of~~ an order placing a child in a shelter if the court finds that the petitioner has made a *good-faith* ~~good faith~~ effort to provide such notice.

(d) In the interval until the shelter hearing is held under paragraph (a), the decision to place the child in a shelter or release the child from a shelter lies with the protective investigator in accordance with subsection (3).

(8)~~(9)~~ A child may not be held in a shelter under an order so directing for more than 21 days unless an order of adjudication for the case has been entered by the court. The parent, guardian, or custodian of the child must be notified of any order directing placement of the child in *an emergency* a shelter and, upon request, must be afforded a hearing within 48 hours, excluding Sundays and legal holidays, to review the necessity for continued placement in the shelter for any time periods as provided in this section. At any arraignment hearing or determination of *emergency* shelter care, the court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child, and the court shall make a written determination as to whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the department has not made such an effort, the court shall order the department to provide appropriate and available services to assure the protection of the child in the home when such services are necessary for the child's safety. Within 7 days after the child is taken into custody, a petition alleging dependency must be filed and, within 14 days after the child is taken into custody, an arraignment hearing must be held for the child's parent, guardian, or custodian to admit, deny, or consent to the findings of dependency alleged in the petition.

(9)~~(10)~~ A child may not be held in a shelter for more than 30 days after the entry of an order of adjudication unless an order of disposition under s. 39.41 has been entered by the court.

(10)~~(11)~~ The time limitations in *subsection (8)* ~~subsections (8) and (9)~~ do not include:

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or the child's guardian ad litem, if one has been appointed by the court, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child's attorney or the child's guardian ad litem, if one has been appointed by the court, and the child.

(b) Periods of delay resulting from a continuance granted at the request of the attorney for the department, if the continuance is granted:

1. Because of an unavailability of evidence material to the case when the attorney for the department has exercised due diligence to obtain such evidence and there are substantial grounds to believe that such evidence will be available within 30 days. *However, if the department is not prepared to present its case within 30 days, the parent or guardian may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.* ~~; or~~

2. To allow the attorney for the department additional time to prepare the case and additional time is justified because of *an* ~~the~~ exceptional *circumstance* ~~circumstances of the case~~.

(c) Reasonable periods of delay necessary to accomplish notice of the hearing to the child's parents; however, the petitioner shall continue regular efforts to provide notice to the parents during such periods of delay.

(d) Reasonable periods of delay resulting from a continuance granted at the request of the parent or legal custodian of a subject child.

(11)~~(12)~~ The court shall review the necessity for a child's continued placement in a shelter in the same manner as the initial placement decision was made and shall make a determination regarding the continued placement:

(a) Within 24 hours after any violation of the time requirements for the filing of a petition or the holding of an arraignment hearing as prescribed in subsection *(8)* ~~(9)~~; or

(b) Prior to the court's granting any delay as specified in subsection *(10)* ~~(11)~~.

(12)~~(13)~~ When any child is placed in a shelter under a court order following a shelter hearing, the court shall order the parents of the child, or the guardian of the child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay, to the department or institution having custody of the child, fees as established by the department. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

Section 6. Section 39.4031, Florida Statutes, 1994 Supplement, is amended to read:

39.4031 Case plan requirements.—

(1) The department or agent of the department shall develop a case plan for each child or child's family receiving services who is a party to any dependency proceeding, activity, or process under this part. A parent, guardian, or custodian of a child *may* ~~shall~~ not be required nor coerced through threat of loss of custody or parental rights to admit in the case plan to abusing, neglecting, or abandoning a child. ~~Nothing in~~ This section *does not* ~~shall be construed to~~ change the provisions of ~~s. 39.402(1) or~~ s. 39.464.

(2) The case plan must ~~meet applicable federal and state requirements and must~~ be:

(a) Developed in conference with the parent, guardian, or custodian of the child and, if appropriate, the child and any court-appointed guardian ad litem. Any parent who believes that his or her perspective has not been considered in the development of a case plan may request referral to mediation pursuant to s. 39.4033 when such services are available.

(b) Written simply and clearly in English and, if English is not the principal language of the child's parent, guardian, or custodian, to the extent possible in such principal language.

(c) Subject to modification based on changing circumstances.

(d) Signed by all parties.

(e) Reasonable, accurate, and in compliance with the requirements of other court orders.

(3) When the child is receiving services in the child's home, the case plan must be developed within 30 days from the date of the department's initial contact with the child, or within 30 days of the date of a disposition order placing the child under the protective supervision of the department in the child's own home, and must include, in addition to the requirements in subsection (2), at a minimum:

(a) A description of the problem being addressed that includes the behavior or act of a parent resulting in risk to the child and the *reason for the* department's intervention.

(b) A description of the services to be provided to the family and child specifically addressing the identified problem, including:

1. Type of services or treatment.

2. Frequency of services or treatment.

3. Location of the delivery of the services.

4. The accountable department staff or service provider.

5. The need for a multidisciplinary case staffing under s. 39.4032.

(c) A description of the measurable objectives, including timeframes for achieving objectives, addressing the identified problem~~, and the risk to the child~~.

(4) When the child is receiving services in a placement outside the child's home or in foster care, the case plan must be prepared within 30 days after placement and also be approved by the court and must include, in addition to the requirements in subsections (2) and (3), at a minimum:

(a) A description of the permanency goal for the child, including the type of placement.

(b) A description of the type of home or institution in which the child is to be placed.

(c) A description of the financial support obligation to the child, including health insurance, of the child's parent, parents, or guardian.

(d) A description of the visitation rights and obligations of the parent or parents ~~and the social service agency~~ during the period the child is in care.

(e) A discussion of the appropriateness of the child's placement, which placement is intended to be in the least restrictive and most family-like setting available consistent with the best interest and special needs of the child and in as close proximity as possible to the child's home.

(f) A discussion of the *department's* ~~social service agency's~~ plans to carry out the judicial determination made by the court, with respect to the child, in accordance with this chapter and applicable federal regulations.

~~(g) A description of the plan for assuring that the child receives proper care.~~

(g)~~(h)~~ A description of the plan for assuring that services *outlined in the case plan* are provided to the child and the child's parent or parents to improve the conditions in the family home and facilitate either the return of the child to the home or the permanent placement of the child.

(h)~~(i)~~ A description of the plan for assuring that services *as outlined in the case plan* are provided to the child and *the child's parent or parents* ~~caretaker~~ to address the needs of the child and a discussion of the appropriateness of the services.

(i)~~(j)~~ A description of the plan for assuring that services are provided to the child and foster parents to address the needs of the child while in foster care.

(j)~~(k)~~ A *written* notice to the parent that failure of the parent to substantially comply with the case plan may result in the termination of parental rights, and that a material failure to substantially comply may result in the filing of a petition for termination of parental rights sooner than the compliance periods set forth in the case plan itself. *The child protection team shall coordinate its effort with the case staffing committee.*

(5) In the event that the parents are unwilling or unable to participate in the development of a case plan, the *department shall document that unwillingness or inability and provide in writing to the parent when available for the court record and then the department* ~~social services agency~~ shall prepare a case plan conforming as nearly as possible with the requirements set forth in this section. The unwillingness or inability of the parents to participate in the development of a case plan shall not in itself bar the filing of a petition for dependency or for termination of parental rights. The parents, if available, must be provided a copy of the case plan and be advised that they may at any time prior to the filing of petition for termination of parental rights enter into a case plan and that they may request judicial review of any provision of the case plan with which they disagree at any court review hearing set for the child.

(6) The services delineated in the case plan must be designed to improve the conditions in the family home and aid in maintaining the child in the home, to facilitate the return of the child to the family home, or to facilitate the permanent placement of the child. The service intervention must be the least intrusive possible into the life of the family, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement. To the extent possible, the service intervention must be grounded in outcome evaluation results that demonstrate success in the reunification or permanent placement process. In designing service interventions, generally recognized standards of the professions involved in the process must be taken into consideration.

Section 7. Subsections (7) and (8) of section 39.4032, Florida Statutes, 1994 Supplement, are amended to read:

39 4032 Multidisciplinary case staffing.—

(7) A case manager shall be designated by the case staffing committee to be responsible for implementing the plan. The case manager shall periodically review the progress toward achieving the objectives of the plan in order to:

(a) Advise the case staffing committee of the need to make adjustments to the plan or take additional action as provided in this part; or

(b) *Recommend termination by the court of* ~~Terminate~~ the case when indicated by successful or substantial achievement of the objectives of the plan.

(8) In the event the parent or parents fail to participate or to accept the recommendations of the case staffing committee as delineated in a case plan, the case staffing committee may:

(a) Close the case without services;

(b) Refer the case to mediation;

(c) Recommend that the department file a dependency petition; *or*

(d) If the child has been found *by the court* to be dependent, report the lack of agreement to the court and request the court to approve the plan;

~~(e) If the child has been found to be dependent,~~ recommend to the court placement of the child in foster care; or

~~(f)~~ recommend that the department file a petition for the termination of parental rights.

Section 8. Paragraphs (a) and (b) of subsection (3) of section 39.4055, Florida Statutes, are amended to read:

39.4055 Injunction pending disposition of petition for detention or dependency; penalty.—

(3)(a) In every instance in which an injunction is issued under this section, the purpose of the injunction shall be primarily to protect and promote the best interests of the child, *taking the preservation of the child's immediate family into consideration.* The effective period of the injunction shall be determined by the court, except that the injunction will expire at the time of the disposition of the petition for detention or dependency.

(b) The injunction shall apply to the alleged or actual offender in a case of child abuse or an unlawful sexual offense involving a child. The conditions of the injunction shall be determined by the court, which conditions may include ordering the alleged or actual offender to:

1. Refrain from further abuse or unlawful sexual activity involving a child.

2. ~~Obtain counseling or~~ Participate in a specialized treatment program.

3. Limit contact or communication with the child victim, other children in the home, or any other child.

4. Refrain from contacting the child at home, school, work, or wherever the child may be found.

5. Have limited or supervised visitation with the child.

6. Pay temporary support for the child or other family members; the costs of medical, psychiatric, and psychological treatment for the child victim incurred as a result of the offenses; and similar costs for other family members.

7. Vacate the home in which the child resides.

Section 9. Subsection (4) of section 39.407, Florida Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical or mental examination of parent, guardian, or person requesting custody of child.—

(4) A judge may order a child in the physical custody of the department to be treated by a licensed health care professional *based on evidence that the child should receive treatment.* The judge may also order such child to receive mental health or retardation services from a psychiatrist, psychologist, or other appropriate service provider. If it is necessary to place the child in a residential facility for such services, then the procedures and criteria established in s. 394.467 or chapter 393 shall be used, whichever is applicable. A child may be provided mental health or retardation services in emergency situations, pursuant to the procedures and criteria contained in s. 394.463(1) or chapter 393, whichever is applicable.

Section 10. Paragraphs (b) and (c) of subsection (2) of section 39.408, Florida Statutes, 1994 Supplement, are amended to read:

39.408 Hearings for dependency cases.—

(2) ADJUDICATORY HEARING.—

(b) Adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition in which it is alleged that the child is dependent, a preponderance of evidence will be required to establish the state of dependency. *Any evidence presented in the dependency hearing which was obtained as the result of an anonymous call must be independently corroborated. In no instance shall allegations made in an anonymous report of abuse be sufficient to support an adjudication of dependency in the absence of corroborating evidence.*

(c) All hearings, except as provided in this section, shall be open to the public, and a person may not be excluded except on special order of the judge, who may close any hearing to the public upon determining that the public interest or the welfare of the child is best served by so doing. *However, the parents shall be allowed to obtain discovery pursuant to the Florida Rules of Juvenile Procedure. However, nothing in this paragraph shall be construed to affect the provisions of s. 415.51(9).* Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents or legal custodians of the child may be examined separately and apart from each other.

Section 11. Subsection (2) of section 39.45, Florida Statutes, 1994 Supplement, is amended to read:

39.45 Legislative intent.—

(2) It is the intent of the Legislature that each child be assured the care, guidance, and control in a permanent home which will serve the best interests of the child's moral, emotional, mental, and physical welfare and that such home preferably be the child's own home or, if that is not possible, an adoptive home. It is the further intent of the Legislature that, if neither of those options is achievable, other options for the child as set out in this section be pursued. *When a child must be taken into foster care, it is the intent of the Legislature that the parent or guardian from whose custody the child has been taken assist the department to the fullest extent possible to locate relatives suitable to serve as caretakers for the child.* It is the intent of the Legislature that permanent placement with the biological or adoptive family be achieved as soon as possible for every child in foster care and that no child remain in foster care longer than 1 year. It is the further intent of the Legislature that a child be reunited with the child's natural family whenever possible and, when not possible, that the child be permanently placed for adoption or, when neither option is achievable, that the child be prepared for alternative permanency goals or placements to include, but not be limited to, long-term foster care, independent living, custody to a relative on a permanent basis with or without legal guardianship, or custody to a foster parent on a permanent basis with or without legal guardianship. It is the intent of the Legislature, therefore, to help ensure a permanent home for a child in foster care by requiring a case plan or, if the child's natural parents will not or cannot participate in a case plan, a permanent placement plan and a periodic review and report to the court on the child's status. When two or more children in foster care are siblings, every reasonable attempt shall be made to place them in the same foster home; in the event of permanent placement of the siblings, to place them in the same adoptive home; and, if the siblings are separated, to keep them in contact with each other.

Section 12. Subsection (5) is added to section 39.47, Florida Statutes, 1994 Supplement, to read:

39.47 Post disposition relief.—

(5) The Legislature finds that children are most likely to realize their potential when they have the ability provided by good permanent families rather than spending long periods of time in temporary placements or unnecessary institutions. It is the intent of the Legislature that decisions be consistent with the child's best interests and that the department make proper adoptive placements as expeditiously as possible following a final judgment terminating parental rights.

Section 13. Paragraph (b) of subsection (3) of section 415.501, Florida Statutes, is amended to read:

415.501 Prevention of abuse and neglect of children; state plan.—

(3) FUNDING AND SUBSEQUENT PLANS.—

(b) The Department of Health and Rehabilitative Services at the state and district levels and the other agencies listed in paragraph (2)(a) shall readdress the plan and make necessary revisions every 5 years, at a minimum. Such revisions shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30 of each year divisible by 5. An annual progress report shall be submitted to update the plan in the years between the 5-year intervals. In order to avoid duplication of effort, these required plans may be made a part of or merged with other plans required by either the state or Federal Government, so long as the portions of the other state or Federal Government plan that constitute the state plan for the prevention of child abuse and neglect are clearly identified as such and are provided to the Speaker of the House of Representatives and the President of the Senate as required above.

~~(b) At least biennially, the Department of Health and Rehabilitative Services at the state and district levels and the other agencies listed in paragraph (2)(a) shall readdress the plan and make necessary revisions. Such revisions shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than January 1, 1985, and by January 1 of alternate years thereafter.~~

Section 14. Section 39.451, Florida Statutes, 1994 Supplement, is amended to read:

39.451 Case planning for children in foster care.—

(1) *In presenting the case plan to the court,* the purpose of a case plan ~~under this section~~ is to ensure permanency for children through recording the actions to be taken by the parties involved in order to quickly assure the safe return of the child to the parents or, if this is not possible, the termination of parental rights and the placement of the child with the department or a licensed child-placing agency for the purpose of finding a permanent adoptive home. Permanent adoptive placement is the primary permanency goal when a child is permanently placed with the department or a licensed child-placing agency. If it is not possible to find a permanent adoptive home, the case plan must record the actions taken for preparing the child for alternative permanency goals or placements such as long-term foster care or independent living.

(2) The case plan must be limited to as short a period as possible for the accomplishment of its provisions. Unless extended under s. 39.453(8), the plan expires no later than 18 months after the date the child was initially *removed from the home* ~~involuntarily ordered or voluntarily placed into foster care~~.

(3) The case plan must meet applicable federal and state requirements as provided in s. 39.4031.

(4)(a) In each case in which the custody of a child has been vested, either voluntarily or involuntarily, in the *department* ~~social service agency~~ and the child has been placed in foster care, a case plan must be prepared within 30 days after the department removes the child from the home, and shall be submitted to the court, with a hearing scheduled for the court to review and accept or modify the plan within an additional 30 days. If the preparation of a case plan, in conference with the parents and other pertinent parties, cannot be accomplished within 30 days, for good cause shown, the court may grant an extension not to exceed 30 days.

(b) The parent or parents may receive assistance from any person, or social service agency in the preparation of the case plan. The social service agency and the court, when applicable, shall inform the parent or parents of the right to receive such assistance, including the right to assistance of counsel.

(c) Before the signing of the case plan, the *authorized agent of the department* ~~person who prepared the plan~~ shall explain it to all persons involved in its implementation, including, when appropriate, *the* ~~a~~ child.

(d) After the case plan has been agreed upon and signed by the parties involved, a copy of the plan must be given immediately to the natural parents, the department or agency, the foster parents, and any other parties identified by the court, including the child, if appropriate.

(e) The case plan may be amended at any time if all parties are in agreement regarding the revisions to the plan ~~and the revisions are approved by the court. A new plan must be prepared and~~ submitted to the court with a memorandum of explanation. The case plan may also be amended by the court or upon motion of any party at a hearing, based on competent evidence demonstrating the need for the amendment. A copy of the amended plan must be immediately given to the parties specified in paragraph (d).

(5) The case plan must be submitted to the court *and all parties* for review and acceptance or modification *at least 72 hours prior to a court hearing*. If the court does not accept any of the requirements of the case plan, the court shall require the parties to make necessary modifications to the plan. An amended plan must be submitted to the court for review and approval within a time certain specified by the court.

(6) A case plan must be prepared, but need not be submitted to the court, for a child who will be in care no longer than 30 days unless that child is placed in foster care a second time within a 12-month period.

Section 15. Section 39.452, Florida Statutes, 1994 Supplement, is amended to read:

39.452 Case planning when parents do not participate and the child is in foster care.—

(1)(a) In the event the parents will not or cannot participate in preparation of a case plan, the *department* ~~social service agency~~ shall submit a full explanation of the circumstances and a plan for the permanent placement of the child to the court within 30 days after the *child has been removed from the home and placed in temporary foster care* ~~placement of the child in foster care~~ and schedule a court hearing within 30 days after submission of the plan to the court to review and accept or modify the plan. If preparation cannot be accomplished within 30 days, for good cause shown, the court may grant *extensions* ~~an extension~~ not to exceed *15* ~~30~~ days *each* for the filing, the granting of which shall be for similar reason to that contained in s. 39.451(4)(a).

(b) In the full explanation of the circumstances submitted to the court, the *department* ~~social service agency~~ shall state the nature of its efforts to secure parental participation in the preparation of a case plan.

(2) In a case in which the physical, emotional, or mental condition or physical location of the parent is the basis for the parent's nonparticipation, it is the burden of the *department* ~~social service agency~~ to provide substantial evidence to the court that such condition or location has rendered the parent unable or unwilling to participate in the preparation of a case plan, either pro se or through counsel. The supporting documentation must be submitted to the court at the time the plan is filed.

(3) The plan must include, but need not be limited to, the specific services to be provided by the *department* ~~social service agency~~, the goals and plans for the child, and the time for accomplishing the provisions of the plan and for accomplishing permanence for the child.

(4)(a) *Seventy-two hours* prior to the filing of a plan, each parent must be provided with a copy of the plan developed by the *department* ~~social service agency~~. If the location of one or both parents is unknown, this must be documented in writing and included in the plan submitted to the court. After the filing of the plan, if the location of an absent parent becomes known, that parent must be served with a copy of the plan.

(b) Before the filing of the plan, the *department* ~~social service agency~~ shall advise each parent, both orally and in writing, that the failure of the parents to substantially comply with a plan which has reunification as its *primary* goal may result in the termination of parental rights, but only after notice and hearing as provided in part VI. If, after the plan has been submitted to the court, an absent parent is located, the *department* ~~social service agency~~ shall advise the parent, both orally and in writing, that the failure of the parents to substantially comply with a plan which has reunification as its goal may result in termination of parental rights, but only after notice and hearing as provided in part VI. Proof of written notification must be filed with the court.

(5)(a) The court shall set a hearing, with notice to all parties, on the plan or any provisions of the plan, within *30* ~~45~~ days after the plan has been received by the court. If the location of a parent is unknown, the notice must be directed to the last permanent address of record.

(b) At the hearing on the plan, the court shall determine:

1. All parties who were notified and are in attendance at the hearing, either in person or through a legal representative. The court shall appoint a guardian ad litem under Rule 1.210, Florida Rules of Civil Procedure, to represent the interests of any parent, if the location of the parent is known but the parent is not present at the hearing and the development of the plan is based upon the physical, emotional, or mental condition or physical location of the parent.

2. If the plan is consistent with previous orders of the court placing the child in care.

3. If the plan is consistent with the requirements for the content of a plan as specified in subsection (3).

4. In involuntary placements, whether each parent was notified of the right to counsel at each stage of the dependency proceedings, in accordance with the Florida Rules of Juvenile Procedure.

5. Whether each parent whose location was known was notified of the right to participate in the preparation of a case plan and of the right to receive assistance from any other person in the preparation of the case plan.

6. Whether the plan is meaningful and designed to address facts and circumstances upon which the court based the finding of dependency in involuntary placements or the plan is meaningful and designed to address facts and circumstances upon which the child was placed in foster care voluntarily.

(c) When the court determines any of the elements considered at the hearing related to the plan have not been met, the court shall require the *parties* ~~social service agency~~ to make necessary amendments to the plan. The amended plan must be submitted to the court for review and approval within a time certain specified by the court. A copy of the amended plan must also be provided to each parent, if the location of the parent is known.

(d) A parent who has not participated in the development of a case plan must be served with a copy of the plan developed by the *department* ~~social service agency~~ if the parent can be located *at least 72 hours prior to the court hearing*. Any parent is entitled to, and may seek, a court review of the plan prior to the initial 6 months' review and must be informed of this right by the *department* ~~agency~~ at the time the *department* ~~agency~~ serves the parent with a copy of the plan. If the location of an absent parent becomes known to the *department* ~~agency~~, the *department* ~~agency~~ shall inform the parent of the right to a court review at the time the *department* ~~agency~~ serves the parent with a copy of the case plan.

Section 16. Subsection (11) of section 39.4612, Florida Statutes, 1994 Supplement, is renumbered as subsection (1), and present subsections (1) through (10) of said section are renumbered as subsections (2) through (11), respectively, to read:

39.4612 Manifest best interests of the child.—In a hearing on a petition for termination of parental rights, the court shall consider the manifest best interests of the child. This consideration shall not include a comparison between the attributes of the parents and those of any persons providing a present or potential placement for the child. For the purpose of determining the manifest best interests of the child, the court shall consider and evaluate all relevant factors, including, but not limited to:

(1)~~(11)~~ Any suitable permanent custody arrangement with a relative of the child.

Section 17. Subsections (4) and (5) of section 415.5016, Florida Statutes, are amended to read:

415.5016 Purpose and legislative intent.—

(4) It is the intent of the Legislature:

(a) That the mission of the child protection system shall be to work in partnership with local communities to ensure that Florida children are growing up in permanent and stable families, free from abuse and neglect.

(b) That every Florida child shall have a permanent family to support and nurture his or her growth and development and be free from abuse and neglect.

(c) That most families shall have the opportunity to receive assistance on a voluntary basis in the least intrusive and most positive manner possible.

(d) That the best methods for protecting children involve early assessment and family-centered supportive services for purposes of family preservation ~~or, when appropriate, reunification~~.

(e) That communities have a responsibility to provide safe and secure neighborhoods where needed services and support are available and accessible for family members.

~~(f) That removal of a child from the home may still be necessary and some families may not be willing or able to become competent caregivers quickly enough with respect to the child's sense of time and the child's fundamental need to grow up in a family.~~

(f)~~(g)~~ That services shall ensure that children who cannot continue to live with their birth families are placed with *responsible* relatives, with another family, or in an independent living arrangement~~, as soon as possible with respect to the child's sense of time~~.

(g)~~(h)~~ That the key function of services funded by the department shall be child and family assessments and the provision of needed services to protect the child and support the family.

(5) It is the goal of the Legislature under this part:

(a) To develop a family services response system that reflects a partnership between the department, other agencies, and local communities.

(b) To develop a family services response system that emphasizes the reduction of risk, rather than the removal of children from their homes~~, in reported cases of abuse or neglect~~.

(c) To develop a family services response system that is sensitive to the social and cultural diversity of the state.

(d) To develop a family services response system that reflects the interest and needs of local communities.

(e) To develop methods for protecting at-risk children, including early assessment, early intervention, and family-centered supportive services, for the purpose of family preservation ~~or, when appropriate, family reunification~~.

(f) To establish policies that limit confirmed classification of reports of abuse and neglect to cases not appropriate for a family services response system approach.

Section 18. Subsections (1) and (2) of section 415.5017, Florida Statutes, are amended to read:

415.5017 Family services response system; procedures.—

(1) Upon receiving a report alleging child abuse or neglect, district staff *shall when possible* ~~may~~ use a family services response system approach to *assist the family in addressing the family problem* ~~address the allegations of the report~~.

(2) District staff, at a minimum, shall adhere to the following procedures *when requesting family assistance*:

~~(a) The purpose of the response to a report alleging abuse or neglect shall be explained to the caregiver.~~

(a)~~1.~~ The purpose of the response shall be explained ~~in a manner consistent with legislative purpose and intent provided in s. 415.5016~~.

(b)~~2.~~ The name of the person responding and their office telephone number shall be provided to the caregiver.

(c)~~3.~~ The possible outcomes *and*~~,~~ services~~, and consequences~~ of the department's response shall be explained to the caregiver.

(d)~~(b)~~ The caregiver shall be involved to the fullest extent possible in determining the nature of the allegation and the nature of any *identified* problem ~~or risk to the child~~.

(e)~~(c)~~ An assessment of risk and the perceived *needs for* ~~need of~~ the child and family shall be conducted in a manner that is sensitive to the social, economic, and cultural environment of the family.

(f)~~(d)~~ Based on the information obtained from the caregiver, the risk assessment instrument must be completed within 48 hours and, if needed, a case plan developed within *a maximum of* 30 days.

(g)~~(e)~~ The department shall document the outcome of its initial assessment of risk as follows:

1. Report closed. Services were not offered to the family ~~because the risk to the child does not meet the department criteria for services~~.

2. Services were offered to and accepted by the family.

3. Services were offered to, but were rejected by, the family.

4. Either the risk to the child's safety and well-being cannot be reduced by the provision of services or the family rejected services, and a protective investigation under part IV is needed.

Section 19. Section 415.502, Florida Statutes, is amended to read:

415.502 Comprehensive protective services for abused or neglected children; legislative intent.—The intent of ss. 415.502-415.514 is to provide for comprehensive protective services for abused or neglected children found in the state by requiring that reports of each abused or neglected child be made to the Department of Health and Rehabilitative Services in an effort to prevent further harm to the child or any other children living in the home and to preserve the family life of the parents and children, to the maximum extent possible, by enhancing the parental capacity for adequate child care. *Each child should have a social security number.*

Section 20. Subsection (2) of section 415.504, Florida Statutes, 1994 Supplement, is amended to read:

415.504 Mandatory reports of child abuse or neglect; mandatory reports of death; central abuse *hotline* ~~registry and tracking system~~.—

(1) Any person, including, but not limited to, any:

(a) Physician, osteopath, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;

(b) Health or mental health professional other than one listed in paragraph (a);

(c) Practitioner who relies solely on spiritual means for healing;

(d) School teacher or other school official or personnel;

(e) Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker; or

(f) Law enforcement officer,

who knows, or has reasonable cause to suspect, that a child is an abused, *abandoned,* or neglected child shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(2)(a) Each report of known or suspected child abuse or neglect pursuant to this section shall be made immediately to the department's central abuse *hotline* ~~registry and tracking system~~ on the single statewide toll-free telephone number, and, if the report is of an instance of known or suspected child abuse by a noncaretaker, the call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse *hotline* ~~registry and tracking system~~.

(b) ~~Each report made by a person in an occupation designated in subsection (1) shall be confirmed in writing to the local office of the department designated by the central abuse registry and tracking system within 48 hours of the initial report.~~ *Reporters in occupation categories designated in subsection (1) are required to provide their names to the hotline staff. The names of reporters shall be entered into the record of the report, but shall be held confidential as provided in s. 415.51(9).*

(c) Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

(d) Reports involving known or suspected child-on-child sexual abuse shall be made and received by the department for reporting purposes. The department shall collect as much information as possible on the report before referring the report to an appropriate agency. If the department determines that the child-on-child sexual abuse report alleges caretaker neglect, it shall investigate the report.

(e) Hotline counselors shall receive periodic training in encouraging reporters to provide their names when reporting abuse. Callers shall be advised of the confidentiality provisions of s. 415.51(9). Additionally, by no later than July 1, 1996, the department shall secure and install electronic equipment which automatically provides to the hotline the number from which the call is placed. This number shall be entered into the report of abuse and become a part of the record of the report, but shall enjoy the same confidentiality as provided to the identify of the caller pursuant to s. 415.51(9).

Section 21. Paragraph (b) of subsection (1) of section 415.505, Florida Statutes, 1994 Supplement, as amended by chapters 93-25 and 94-164, Laws of Florida, is hereby repealed.

Section 22. Subsection (1) of section 415.5055, Florida Statutes, is amended to read:

415.5055 Child protection teams; services; eligible cases.—The department shall develop, maintain, and coordinate the services of one or more multidisciplinary child protection teams in each of the service districts of the department. Such teams may be composed of representatives of appropriate health, mental health, social service, legal service, and law enforcement agencies.

(1) The department shall utilize and convene the teams to supplement the *assessment* ~~protective investigation~~ and protective supervision activities of the children, youth, and families program of the department. Nothing in this section shall be construed to remove or reduce the duty and responsibility of any person to report pursuant to s. 415.504 all suspected or actual cases of child abuse or neglect or sexual abuse of a child. The role of the teams shall be to support activities of the program and to provide services deemed by the teams to be necessary and appropriate to abused and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a child protection team shall be capable of providing include, but are not limited to, the following:

(a) Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of findings relative thereto.

(b) Telephone consultation services in emergencies and in other situations.

(c) Medical evaluation related to abuse or neglect, as defined by department policy or rule.

(d) Such psychological and psychiatric diagnosis and evaluation services for the child or his parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child abuse or neglect case, as the team may determine to be needed.

(e) Short-term psychological treatment. It is the intent of the Legislature that short-term psychological treatment be limited to no more than 6 months' duration after treatment is initiated, except that the appropriate district administrator may authorize such treatment for individual children beyond this limitation if the administrator deems it appropriate.

(f) Expert medical, psychological, and related professional testimony in court cases.

(g) Case staffings to develop, implement, and monitor treatment plans for children whose cases have been referred to the team. A child protection team may provide consultation with respect to a child who has not been referred to the team, but who is alleged or is shown to be abused, which consultation shall be provided at the request of a representative of the children, youth, and families program or at the request of any other professional involved with a child or his parent or parents, guardian or guardians, or other caregivers. In every such child protection team case staffing, consultation, or staff activity involving a child, a children, youth, and families program representative shall attend and participate.

(h) Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

(i) Such training services for program and other department employees as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse and neglect cases.

(j) Educational and community awareness campaigns on child abuse and neglect in an effort to enable citizens more successfully to prevent, identify, and treat child abuse and neglect in the community.

Section 23. Subsection (9) of section 415.51, Florida Statutes, 1994 Supplement, is amended to read:

415.51 Confidentiality of reports and records in cases of child abuse or neglect.—

(9) The name of any person reporting child abuse, *abandonment,* or neglect *may* ~~shall~~ not be released to any person other than employees of the department responsible for child protective services, the central abuse *hotline* ~~registry and tracking system~~, or the appropriate state attorney without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, *abandonment,* or neglect when deemed necessary by *the court,* the state attorney, or the department ~~to protect a child who is the subject of a report~~, provided the fact that such person made the report is not disclosed. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Any person who reports a case of child abuse or neglect may, at the time he makes the report, request that the department notify him that a child protective investigation occurred as a result of the report. The department shall mail such a notice to the reporter within 10 days *after completing* ~~of the completion of~~ the child protective investigation.

Section 24. The Professional Development Centers of the Department of Health and Rehabilitative Services shall assess the training curriculum of department staff who operate the abuse hotline and those who are responsible for child protective services. This assessment shall address the adequacy of this curriculum and determine if changes are necessary in the area of the investigation and prevention of child abuse. The department shall report the results of this assessment to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the substantive committees of the Senate and the House of Representatives by December 1, 1995.

Section 25. Effective upon this act becoming a law:

(1) There is created the Task Force on Family Safety to examine and recommend changes to the state's child-welfare system as reflected in the policies, programs, and organizational structure related to programs for children and families. The task force shall examine the need for better coordination with respect to issues of child protection and domestic violence, including the relationship between law enforcement agencies, social services, crime, and crime-prevention programs. The task force shall examine and identify barriers to the effective sharing of information and communications among and between agencies charged with implementing the state's child-welfare system.

(2) The task force shall be composed of 11 members, as follows:

(a) A representative of the Florida Sheriffs Association, appointed by the executive director of that organization.

(b) A representative of the Florida Police Chiefs Association, appointed by the president of that organization.

(c) A representative of the Florida Prosecuting Attorneys Association, appointed by the president of that organization.

(d) A representative of the Florida Coalition Against Domestic Violence, appointed by the president of that organization.

(e) A guardian ad litem, appointed by the Chief Justice of the Supreme Court.

(f) The Secretary of Health and Rehabilitative Services or his designee.

(g) The Executive Director of the Department of Law Enforcement or his designee.

(h) A member selected by the Florida Committee for the Prevention of Child Abuse.

(i) A circuit court judge assigned to hear juvenile cases, selected by the Supreme Court of Florida.

(j) Two persons appointed by the other members of the task force based on its specific need, considering a representative from a child protection team.

(3) Members of the task force must be appointed within 30 days after this act becomes a law. The task force shall select a chairperson from among its members. The task force may appoint subcommittees that include members who are experts in a subject area but who are not members of the task force and who may not vote on the final report and recommendations of the task force.

(4) The task force shall hold its first meeting within 2 weeks after the appointments are made. Members of the task force shall serve without compensation but are entitled to receive reimbursement for per diem and travel expenses as provided in section 112.061, Florida Statutes, from within the budgets of the Department of Health and Rehabilitative Services and the Department of Law Enforcement. The Department of Health and Rehabilitative Services and the Department of Law Enforcement shall provide staff support to the task force.

(5) The task force shall submit findings and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders of the Senate and the House of Representatives by December 1, 1996. The findings and recommendations of the task force shall serve as the basis for a comprehensive reform proposal for the 1997 Regular Session of the Legislature.

Section 26. Effective upon this act becoming a law, the Criminal Justice Standards and Training Commission, in conjunction with the Department of Health and Rehabilitative Services, shall assess the training curriculum of law enforcement personnel to determine its adequacy and to recommend appropriate standards and necessary enhancements in areas relating to the prevention of family violence, including interpersonal communications and skills, team building, and investigative procedures. The commission shall develop training materials, such as video tapes, which can be used by both law enforcement agencies and social service agencies to enhance the skills and knowledge of personnel who work with families and children affected by family violence and child abuse and neglect. The professional development center within the Department of Health and Rehabilitative Services shall also review the training curriculum of personnel who operate the abuse telephone hotline and employees who are responsible for child protective services to determine if changes are needed in areas such as skill building, team building, family-violence prevention, and assessment activities and shall make appropriate changes. The Department of Law Enforcement and the Department of Health and Rehabilitative Services shall report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the substantive committees of the Senate and the House of Representatives, and the Task Force on Family Safety on the results of these assessments by November 1, 1995. The report shall become part of the final report of the Task Force on Family Safety.

Section 27. Effective upon this act becoming a law:

(1) The Department of Health and Rehabilitative Services and the Department of Law Enforcement shall establish and evaluate at least two different model programs for receiving, disseminating, and investigating reports of child abuse, neglect, and exploitation. The model programs shall be established in at least two counties, to be operational no later than August 1, 1995. In order to identify the most expedient methods for receiving, disseminating, and investigating reports of child abuse or neglect, the Department of Health and Rehabilitative Services, the sheriff, and other law enforcement agencies within a county that implements a model program may reassign functions and duties within and among the participating agencies, notwithstanding contrary provisions in part IV of chapter 415, Florida Statutes. The model programs must be designed to test at least two distinct systems for reporting and investigating child abuse which are different from the current procedures. In consultation with the Department of Law Enforcement and the Department of Health and Rehabilitative Services, the sheriff shall develop the model program to be implemented within the county. The sheriff may receive, disseminate, and investigate all, or a portion of, the reports of abuse or neglect, or may conduct any of these activities in conjunction with the Department of Health and Rehabilitative Services.

(2) Counties selected to participate in this model program shall be designated by the Department of Health and Rehabilitative Services in consultation with the Department of Law Enforcement. Criteria used by the Department of Health and Rehabilitative Services in selecting the counties must include:

(a) The county's expressed interest;

(b) The availability of appropriate electronic equipment;

(c) The availability of adequately trained staff;

(d) The county's ability to elicit the support and participation of other necessary agencies; and

(e) Other criteria developed jointly by the Department of Law Enforcement and the Department of Health and Rehabilitative Services.

(3) In implementing a model program, the sheriff shall enter into an agreement with the Department of Health and Rehabilitative Services which must include, but need not be limited to:

(a) Assurances that the sheriff's office and other participating law enforcement agencies will comply with the procedural requirements of part IV of chapter 415, Florida Statutes.

(b) A formula for allocating funds from the department's budget for the abuse hotline and child protective services to support the county's model program in an amount that is proportional to the workload that is handled in the county by personnel of the abuse hotline and child protective services.

(c) A procedure for submitting all reports of child abuse or neglect to the Department of Health and Rehabilitative Services' central abuse registry and tracking system within 24 hours after the incident is reported for the purpose of maintaining a centralized data base.

(d) A description of a protocol between the Department of Health and Rehabilitative Services and the sheriff's office which, at a minimum, must clearly define how the following processes will be handled:

1. Receiving and coordinating reports of abuse and neglect.

2. Conducting child-protective investigations.

3. Conducting criminal investigations of child abuse and neglect.

4. Assessing a child's risk and a family's resources.

5. Gathering criminal evidence.

6. Fact-finding for purposes of dependency petitions.

7. Classifying reports.

8. Appealing the classification of a report.

9. Communicating with and requesting the assistance of the state attorney.

10. Protecting the confidentiality of reports and access to information.

11. Using child-protection teams.

12. Storing and maintaining records and other information.

13. Providing services.

14. Providing immediate protection for a child, including determining whether to remove a child from the home and making long-range plans for the child and family.

(e) A description of the ways the transition of responsibility will assure the integrity and continuity of protective investigations.

(f) Assurances that all child protective investigatory activities will be properly conducted within statutory requirements.

(g) The appropriate collocation of social services and law enforcement staff, if necessary.

Interagency agreements shall be developed between the sheriff and all local law enforcement agencies and other related agencies, if necessary, delineating each agency's roles and responsibilities in the county's model program.

(4) The Department of Law Enforcement and the Department of Health and Rehabilitative Services shall each provide a report of the model programs to the Task Force on Family Safety created in section 27, and to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders of the Senate and the House of Representatives by September 1, 1996. The reports must include an assessment of the overall performance of the model program, problems and barriers encountered, and recommendations for policy and organizational changes.

Section 28. Subsection (2) of section 39.001, Florida Statutes, 1994 Supplement, is amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(2) The Department of Juvenile Justice or the Department of Health and Rehabilitative Services, as appropriate, may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the Department of Juvenile Justice or the Department of Health and Rehabilitative Services contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

(b) The Department of Juvenile Justice and the Department of Health and Rehabilitative Services shall *require employment screening pursuant to chapter 435, using the level 2 standards set forth in that chapter* ~~establish minimum standards for good moral character, based on screening,~~ for personnel in programs for children or youths. ~~Such minimum standards shall ensure that no personnel have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following sections of the Florida Statutes or under a similar statute of another jurisdiction:~~

~~1. Section 782.04, relating to murder.~~

~~2. Section 782.07, relating to manslaughter.~~

~~3. Section 782.071, relating to vehicular homicide.~~

~~4. Section 782.09, relating to killing an unborn child by injury to the mother.~~

~~5. Section 784.011, relating to assault, if the victim of the offense was a minor.~~

~~6. Section 784.021, relating to aggravated assault.~~

~~7. Section 784.03, relating to battery, if the victim of the offense was a minor.~~

~~8. Section 784.045, relating to aggravated battery.~~

~~9. Section 787.01, relating to kidnapping.~~

~~10. Section 787.02, relating to false imprisonment.~~

~~11. Section 787.04, relating to removing minors from the state or concealing minors contrary to state agency or court order.~~

~~12. Section 794.011, relating to sexual battery.~~

~~13. Chapter 796, relating to prostitution.~~

~~14. Section 798.02, relating to lewd and lascivious behavior.~~

~~15. Chapter 800, relating to lewdness and indecent exposure.~~

~~16. Section 806.01, relating to arson.~~

~~17. Section 812.13, relating to robbery.~~

~~18. Section 826.04, relating to incest.~~

~~19. Section 827.03, relating to aggravated child abuse.~~

~~20. Section 827.04, relating to child abuse.~~

~~21. Section 827.05, relating to negligent treatment of children.~~

~~22. Section 827.071, relating to sexual performance by a child.~~

~~23. Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

~~24. Chapter 847, relating to obscene literature.~~

~~25. Chapter 893, relating to drug abuse prevention and control, if the offense was a felony or if any other person involved in the offense was a minor.~~

~~26. Section 817.563, relating to fraudulent sale of controlled substances, if the offense was a felony.~~

~~For the purposes of this section, a finding of delinquency or a plea of nolo contendere or other plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II, or a similar statute of another jurisdiction for any of the foregoing acts has the same effect as a finding of guilt, regardless of adjudication or disposition.~~

~~(c) Standards for screening shall also ensure that the person:~~

~~1. Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37);~~

~~2. Does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5) or s. 415.503(6) which has been uncontested or has been upheld pursuant to the procedures provided in s. 415.103 or s. 415.504; or~~

~~3. Has not committed an act which constitutes domestic violence as defined in s. 741.28.~~

(c)~~(d)~~ The Department of Juvenile Justice or the Department of Health and Rehabilitative Services may grant *exemptions* ~~to any person who has been convicted of one of the following offenses an exemption~~ from disqualification from working with children *as provided in s. 435.07.*~~:~~

~~1. A felony prohibited under any section of the Florida Statutes cited in paragraph (b) or paragraph (c) or under a similar statute of another jurisdiction;~~

~~2. Misdemeanors prohibited under any section of the Florida Statutes cited in this section or under a similar statute of another jurisdiction;~~

~~3. Offenses which were a felony when committed but are now a misdemeanor;~~

~~4. Findings of delinquency as specified in this section;~~

~~5. Judicial determinations of abuse or neglect under this chapter;~~

~~6. Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or have been upheld pursuant to s. 415.103 or s. 415.504; or~~

~~7. Commission of domestic violence.~~

~~(e) In order to grant an exemption to a person, the Department of Juvenile Justice or the Department of Health and Rehabilitative Services, as appropriate, must have clear and convincing evidence to support a reasonable belief that the person is of good character so as to justify an exemption. The person shall bear the burden of setting forth sufficient~~

~~evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the time that has elapsed since the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident, or such other circumstances that by the standards described in paragraph (c) indicate that the person will not present a danger to the safety or well-being of children. The decision of the Department of Juvenile Justice or the Department of Health and Rehabilitative Services regarding an exemption may be contested through a hearing held pursuant to chapter 120.~~

~~(f) The disqualification for employment provided in this subsection may not be removed solely by reason of any executive clemency, pardon, or restoration of civil rights from any person found guilty of, regardless of adjudication, or having entered a plea of nolo contendere or guilty to, any felony cited in this subsection.~~

~~(g) To be a provider for the Department of Juvenile Justice or the Department of Health and Rehabilitative Services, the applicant must submit a complete set of fingerprints of the operator and each employee, taken by an authorized law enforcement agency or an employee of the Department of Juvenile Justice or the Department of Health and Rehabilitative Services who is trained to take fingerprints.~~

~~1. The Department of Juvenile Justice or the Department of Health and Rehabilitative Services, as appropriate, shall submit the fingerprints to the Department of Law Enforcement for state processing and federal processing by the Federal Bureau of Investigation.~~

~~2. The Department of Juvenile Justice or the Department of Health and Rehabilitative Services, as appropriate, shall review the record with respect to the crimes contained in paragraph (b) and shall notify the provider of its findings. When disposition information is missing on a criminal record, the provider, upon request of the Department of Juvenile Justice or the Department of Health and Rehabilitative Services, shall provide it within 30 days. The failure to supply such information within 30 days or show reasonable efforts to obtain it shall result in automatic disqualification. If a legible set of fingerprints, as determined by the Federal Bureau of Investigation, cannot be obtained after a minimum of three attempts, the Department of Juvenile Justice or the Department of Health and Rehabilitative Services, as appropriate, shall determine eligibility based upon the name check results provided by the Florida Department of Law Enforcement and the Federal Bureau of Investigation as noted on the fingerprint cards.~~

~~(h) The costs of processing fingerprints and the state criminal records checks shall be paid by the provider or persons being screened.~~

~~(i)1. It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person to willfully, knowingly, or intentionally use information from the criminal records obtained under this subsection for any purpose other than employment screening or to release information from such records to any person for any purpose other than employment screening.~~

~~2. It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person to willfully, knowingly, or intentionally use information from the juvenile records obtained under this subsection for any purpose other than employment screening or to release information from such records to any other person for any purpose other than employment screening.~~

Section 29. Subsections (3), (4), (5), (6), and (7) of section 39.076, Florida Statutes, 1994 Supplement, are amended to read:

39.076 Departmental contracting powers; personnel standards and screening.—

(3) The department shall *require employment screening pursuant to chapter 435, using the level 1 standards for screening set forth in that chapter* ~~establish minimum standards for good moral character, based on screening~~, for personnel in delinquency facilities, services, and programs. ~~Such minimum standards shall ensure that no personnel have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under similar laws of other jurisdictions:~~

~~(a) Section 782.04, relating to murder.~~

~~(b) Section 782.07, relating to manslaughter.~~

~~(c) Section 782.071, relating to vehicular homicide.~~

~~(d) Section 782.09, relating to killing of an unborn child by injury to the mother.~~

~~(e) Section 784.011, relating to assault, if the victim of the offense was a minor.~~

~~(f) Section 784.021, relating to aggravated assault.~~

~~(g) Section 784.03, relating to battery, if the victim of the offense was a minor.~~

~~(h) Section 784.045, relating to aggravated battery.~~

~~(i) Section 787.01, relating to kidnapping.~~

~~(j) Section 787.02, relating to false imprisonment.~~

~~(k) Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.~~

~~(l) Section 794.011, relating to sexual battery.~~

~~(m) Chapter 796, relating to prostitution.~~

~~(n) Section 798.02, relating to lewd and lascivious behavior.~~

~~(o) Chapter 800, relating to lewdness and indecent exposure.~~

~~(p) Section 806.01, relating to arson.~~

~~(q) Section 812.13, relating to robbery.~~

~~(r) Section 826.04, relating to incest.~~

~~(s) Section 827.03, relating to aggravated child abuse.~~

~~(t) Section 827.04, relating to child abuse.~~

~~(u) Section 827.05, relating to negligent treatment of children.~~

~~(v) Section 827.071, relating to sexual performance by a child.~~

~~(w) Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

~~(x) Chapter 847, relating to obscene literature.~~

~~(y) Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a child.~~

~~(z) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.~~

~~For the purposes of this section, a finding of delinquency or a plea of nolo contendere or other plea amounting to an admission of guilt to a petition alleging delinquency pursuant to this chapter, or any similar law of another jurisdiction, for any of the foregoing acts has the same effect as a finding of guilt, regardless of adjudication or disposition.~~

~~(4) Standards for screening shall also ensure that the person:~~

~~(a) Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01;~~

~~(b) Does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5) which has been uncontested or has been upheld pursuant to s. 415.504(4)(d);~~

~~(c) Does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5) or s. 415.503(6) which has been uncontested or has been upheld pursuant to the procedures provided in s. 415.103 or s. 415.504; or~~

~~(d) Has not committed an act which constitutes domestic violence as defined in s. 741.28.~~

(4)~~(5) For the following,~~ The department may grant *exemptions* ~~to any person an exemption~~ from disqualification from working with children *as provided in s. 435.07.*~~:~~

~~(a) Felonies, other than specified felonies, prohibited under any of the foregoing Florida Statutes cited in this section, or any similar law of another jurisdiction, committed more than 3 years previously. For the purposes of this section, "specified felony" means those felonies enumerated in paragraphs (3)(a), (b), (d), (l), (m), (o), (r), (s), (t), (v), (x), (y), and (z), and under similar laws of other jurisdictions;~~

~~(b) Misdemeanors prohibited under any of the foregoing Florida Statutes cited in this section or under similar laws of other jurisdictions;~~

~~(c) Offenses which were a felony when committed but are now a misdemeanor;~~

~~(d) Findings of delinquency as specified in this section;~~

~~(e) Judicial determinations of abuse or neglect under this chapter;~~

~~(f) Confirmed reports of abuse, neglect, or exploitation under chapter 415; or~~

~~(g) Commission of domestic violence.~~

~~(6) In order to grant an exemption to a person, the department must have clear and convincing evidence to support a reasonable belief that the person is of good character so as to justify an exemption. The person bears the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the time period that has elapsed since the incident, the nature of the harm occasioned to the victim, the history of the person since the incident, and such other circumstances as shall be sufficient to indicate that the person will not present a danger to the safety or well being of children. The decision of the department regarding an exemption may be contested through the hearing procedures set forth in chapter 120.~~

~~(7) The disqualification for employment provided in this section shall not be removed from any person found guilty of, regardless of adjudication, or having entered a plea of nolo contendere or guilty to, any felony cited in this section solely by reason of any executive clemency, pardon, or restoration of civil rights.~~

Section 30. Paragraph (d) of subsection (6) of section 39.411, Florida Statutes, is amended to read:

39.411 Oaths, records, and confidential information.—

(6) No court record of proceedings under this chapter shall be admissible in evidence in any other civil or criminal proceeding, except that:

(d) Records of proceedings under this part may be used to prove disqualification pursuant to *s. 435.06* ~~ss. 39.076, 110.1127, 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175, and 409.176~~ and for proof *regarding such disqualification* in a chapter 120 proceeding ~~pursuant to ss. 415.103 and 415.504~~.

Section 31. Subsections (3), (4), (5), and (6) of section 110.1127, Florida Statutes, 1994 Supplement, are amended to read:

110.1127 Employee security checks.—

(3)(a) Within the Department of Health and Rehabilitative Services, all positions in programs providing care to children, *aged persons,* or the developmentally disabled for 15 hours or more per week, *all permanent and temporary employee positions of the central abuse hotline, and all persons working under contact who have access to abuse records* are deemed to be *persons and* positions of special trust or responsibility, *and require employment screening pursuant to chapter 435, using the level 2 standards set forth in that chapter.* ~~and a person shall be disqualified for employment in any such position by reason of~~:

~~1. Having been found guilty of, regardless of adjudication, or having entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:~~

~~a. Section 782.04, relating to murder.~~

~~b. Section 782.07, relating to manslaughter.~~

~~c. Section 782.071, relating to vehicular homicide.~~

~~d. Section 782.09, relating to killing of an unborn child by injury to the mother.~~

~~e. Section 784.011, relating to assault, if the victim of the offense was a minor.~~

~~f. Section 784.021, relating to aggravated assault.~~

~~g. Section 784.03, relating to battery, if the victim of the offense was a minor.~~

~~h. Section 784.045, relating to aggravated battery.~~

~~i. Section 787.01, relating to kidnapping.~~

~~j. Section 787.02, relating to false imprisonment.~~

~~k. Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.~~

~~l. Section 794.011, relating to sexual battery.~~

~~m. Chapter 796, relating to prostitution.~~

~~n. Section 798.02, relating to lewd and lascivious behavior.~~

~~o. Chapter 800, relating to lewdness and indecent exposure.~~

~~p. Section 806.01, relating to arson.~~

~~q. Section 812.13, relating to robbery.~~

~~r. Section 826.04, relating to incest.~~

~~s. Section 827.03, relating to aggravated child abuse.~~

~~t. Section 827.04, relating to child abuse.~~

~~u. Section 827.05, relating to negligent treatment of children.~~

~~v. Section 827.071, relating to sexual performance by a child.~~

~~w. Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

~~x. Chapter 847, relating to obscene literature.~~

~~y. Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.~~

~~z. Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony; or~~

~~2. Having had a finding of delinquency or having entered a plea of nolo contendere or a plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II, chapter 39, or similar statutes of other jurisdictions, for any of the foregoing acts, regardless of adjudication or disposition. For the purposes of this subsection, such a finding or plea has the same effect as a finding of guilt; or~~

~~3. Having been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01; or~~

~~4. Having a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5) or abuse or neglect as defined in s. 415.503(6) which has been uncontested or upheld pursuant to the procedures provided in s. 415.103 or s. 415.504; or~~

~~5. Having committed an act which constitutes domestic violence as defined in s. 741.28.~~

(b)1. ~~For the following,~~ The department may grant *exemptions* ~~to any person an exemption~~ from disqualification from working with children or the developmentally disabled *as provided in s. 435.07.*~~:~~

~~a. Felonies, other than specified felonies, prohibited under any of the foregoing Florida Statutes cited in paragraph (a) or under similar statutes of other jurisdictions, committed more than 3 years previously. For the purposes of this sub-subparagraph, "specified felony" means those felonies in the Florida Statutes enumerated in sub-subparagraphs (a)1.a., b., d., l., m., o., r., s., t., v., x., y., and z., or under any similar statute of another jurisdiction;~~

~~b. Misdemeanors prohibited under any of the foregoing Florida Statutes cited in this subsection or under similar statutes of another jurisdiction;~~

~~c. Offenses which were a felony when committed but are now a misdemeanor;~~

~~d. Findings of delinquency as specified in this subsection;~~

~~e. Judicial determinations of abuse or neglect under chapter 39;~~

~~f. Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or have been upheld pursuant to the procedures provided in s. 415.103 or s. 415.504; or~~

~~g. Commissions of domestic violence.~~

~~2. In order to grant an exemption to a person, the department must have clear and convincing evidence to support a reasonable belief that the person is of good character as to justify an exemption. The person shall bear the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the time period that has elapsed since the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident, or such other circumstances as indicate that the person will not present a danger to the safety or well being of children. The decision of the department regarding an exemption may be contested through the hearing procedures set forth in chapter 120.~~

~~(c) The disqualification from employment provided in paragraph (a) shall not be removed from any person found guilty of, regardless of adjudication, or having entered a plea of nolo contendere or guilty to, any felony covered by paragraph (a) solely by reason of any pardon, executive clemency, or restoration of civil rights.~~

(c)~~(d)~~ All *persons and* employees in such positions of trust or responsibility shall be required to undergo security background investigations as a condition of employment and continued employment. For the purposes of this subsection, security background investigations shall *be conducted as provided in chapter 435, using the level 2 standards for screening set forth in that chapter* ~~include, but not be limited to, employment history checks, checks of references, local criminal records checks through local law enforcement agencies, fingerprinting for all purposes and checks in this paragraph, statewide criminal records checks through the Department of Law Enforcement, federal criminal records checks through the Federal Bureau of Investigation, and abuse registry clearance~~.

~~(e) All new employees shall submit a complete set of fingerprints to the department for processing pursuant to subsection (6) within 5 working days after beginning work.~~

~~(f) Under the penalty of perjury, all employees in such positions of trust or responsibility shall attest to meeting the requirements for qualifying for employment.~~

(d)~~(g)~~ It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully, knowingly, or intentionally to:

1. Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment a material fact used in making a determination as to such person's qualifications for a position of special trust;

2. Use records information for purposes other than screening for employment or release records information to other persons for purposes other than screening for employment. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(e)~~(h)~~ It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use juvenile records information for any purposes other than specified in this section or to release such information to other persons for purposes other than specified in this section.

~~(4) Within the Department of Health and Rehabilitative Services, all permanent or temporary employees in the central abuse registry and tracking system and all persons working under contract who have access to abuse records shall be screened for recorded reports of abuse, neglect, or exploitation pursuant to ss. 415.101-415.113 and ss. 415.501-415.514. Such employees shall be rescreened annually. A confirmed report shall disqualify an applicant or an employee from employment. The presence of indicated reports prior to July 1, 1987, shall be processed as provided in ss. 415.107(5)(a) and 415.51(4). The exemption procedures provided in subparagraph (3)(b)2. shall be available to persons covered under this subsection.~~

(4)~~(5)~~ Any person who is required to undergo such a security background investigation and who refuses to cooperate in such investigation or refuses to submit ~~his~~ fingerprints shall be disqualified for employment in such position or, if employed, shall be dismissed.

(5)~~(6)~~ Such background investigations shall be conducted at the expense of the employing agency. When fingerprinting is required, the fingerprints of the employee or applicant for employment shall be taken by the employing agency or by an authorized law enforcement officer and submitted to the Department of Law Enforcement for processing and forwarding, when requested by the employing agency, to the United States Department of Justice for processing. The employing agency shall reimburse the Department of Law Enforcement for any costs incurred by it in the processing of the fingerprints.

Section 32. Subsections (1), (2), and (3) of section 242.335, Florida Statutes, 1994 Supplement, are amended to read:

242.335 Personnel screening; Florida School for the Deaf and the Blind.—

(1) The Board of Trustees of the Florida School for the Deaf and the Blind shall, because of the special trust or responsibility of employees of the school, require all employees and applicants for employment to undergo personnel screening and security background investigations *as provided in chapter 435, using the level 2 standards for screening set forth in that chapter,* as a condition of employment and continued employment. ~~For the purposes of this section, personnel screening and security background investigations shall include, but not be limited to, employment history checks, checks of references, local criminal records checks through local law enforcement agencies, fingerprinting, statewide criminal records checks through the Department of Law Enforcement, federal criminal records checks through the Federal Bureau of Investigation, and abuse registry clearance.~~ The cost of a personnel screening and security background investigation for an employee of the school shall be paid by the school. The cost of such a screening and investigation for an applicant for employment may be paid by the school.

(2) As a prerequisite for initial and continuing employment at the Florida School for the Deaf and the Blind:

(a) The applicant or employee shall submit to the Florida School for the Deaf and the Blind a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the Florida School for the Deaf and the Blind who is trained to take fingerprints. The Florida School for the Deaf and the Blind shall submit the fingerprints to the Department of Law Enforcement for state processing and the Federal Bureau of Investigation for federal processing.

(b)1. The applicant or employee shall attest to the minimum standards for good moral character as contained in *chapter 435, using the level 2 standards set forth in that chapter* ~~paragraph (3)(a) of this section~~ under penalty of perjury.

2. New personnel shall be on a probationary status pending a determination of compliance with such minimum standards for good moral character. This paragraph is in addition to any probationary status provided for by Florida law or Florida School for the Deaf and the Blind rules or collective bargaining contracts.

(c) The Florida School for the Deaf and the Blind shall review the record of the applicant or employee with respect to the crimes contained in subsection (3) and shall notify the applicant or employee of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the applicant or employee, upon request of the Florida School for the Deaf and the Blind, to obtain and supply within 30 days the missing disposition information to the Florida School for the Deaf and the Blind. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification of an applicant and automatic termination of an employee.

(d) After an initial personnel screening and security background investigation, written notification shall be given to the affected employee within a reasonable time prior to any subsequent screening and investigation.

(3)~~(a) An employee or applicant for a position in a program providing care to enrolled students may be terminated from or disqualified for employment in any such position by reason of:~~

~~1. Having been found guilty of, regardless of adjudication, or having entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:~~

~~a. Section 782.04, relating to murder.~~

~~b. Section 782.07, relating to manslaughter.~~

~~c. Section 782.071, relating to vehicular homicide.~~

~~d. Section 782.09, relating to killing of an unborn child by injury to the mother.~~

~~e. Section 784.011, relating to assault, if the victim of the offense was a minor.~~

~~f. Section 784.021, relating to aggravated assault.~~

~~g. Section 784.03, relating to battery, if the victim of the offense was a minor.~~

~~h. Section 784.045, relating to aggravated battery.~~

~~i. Section 787.01, relating to kidnapping.~~

~~j. Section 787.02, relating to false imprisonment.~~

~~k. Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.~~

~~l. Section 794.011, relating to sexual battery.~~

~~m. Chapter 796, relating to prostitution.~~

~~n. Section 798.02, relating to lewd and lascivious behavior.~~

~~o. Chapter 800, relating to lewdness and indecent exposure.~~

~~p. Section 806.01, relating to arson.~~

~~q. Section 812.13, relating to robbery.~~

~~r. Section 826.04, relating to incest.~~

~~s. Section 827.03, relating to aggravated child abuse.~~

~~t. Section 827.04, relating to child abuse.~~

~~u. Section 827.05, relating to negligent treatment of children.~~

~~v. Section 827.071, relating to sexual performance by a child.~~

~~w. Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

~~x. Chapter 847, relating to obscene literature.~~

~~y. Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.~~

~~z. Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony;~~

~~2. Having had a finding of delinquency or having entered a plea of nolo contendere or a plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II of chapter 39, or similar statutes of other jurisdictions, for any of the acts set forth in subparagraph 1., regardless of adjudication or disposition. For the purposes of this subparagraph, such a finding or plea has the same effect as a finding of guilt;~~

~~3. Having been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37);~~

~~4. Having a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5) or abuse or neglect as defined in s. 415.503(6) which has been uncontested or upheld pursuant to the procedures provided in s. 415.103 or s. 415.504; or~~

~~5. Having committed an act which constitutes domestic violence as defined in s. 741.28.~~

~~(b)1.~~ The Florida School for the Deaf and the Blind may grant *exemptions* ~~to any employee or applicant for a position in a program providing care to enrolled students an exemption~~ from disqualification *as provided in s. 435.07.* ~~for the following:~~

~~a. Felonies cited in paragraph (3)(a) of this section or prohibited under similar statutes of other jurisdictions, committed more than 3 years previously;~~

~~b. Misdemeanors prohibited under this subsection or under similar statutes of another jurisdiction;~~

~~c. Offenses which were a felony when committed but are now a misdemeanor;~~

~~d. Findings of delinquency as specified in this subsection;~~

~~e. Judicial determinations of abuse or neglect under chapter 39;~~

~~f. Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or have been upheld pursuant to the procedures provided in s. 415.103 or s. 415.504; or~~

~~g. Commissions of domestic violence.~~

~~2. In order to grant an exemption to a person, the Florida School for the Deaf and the Blind must have clear and convincing evidence to support a reasonable belief that the person is of such good character as to justify an exemption. In considering the request for such an exemption, the school shall conduct, if requested by the applicant or employee, an informal hearing at which the applicant or employee or his representative may present evidence of good moral character and rehabilitation. The person shall bear the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the time period that has elapsed since the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident, or such other circumstances that shall indicate that the person will not present a danger to the safety or well-being of children. The decision of the Florida School for the Deaf and the Blind regarding an exemption may be contested through the hearing procedures set forth in chapter 120.~~

~~(c) The disqualification or termination from employment shall not be removed for any person found guilty of, regardless of adjudication, or having entered a plea of nolo contendere or guilty to, any felony covered by this subsection solely by reason of any pardon, executive clemency, or restoration of civil rights.~~

Section 33. Section 393.0655, Florida Statutes, 1994 Supplement, is amended to read:

393.0655 Screening of direct service providers.—

(1) MINIMUM STANDARDS.—The department shall *require employment screening pursuant to chapter 435, using the level 2 standards for screening set forth in that chapter* ~~establish minimum standards as to good moral character, based on screening~~, for direct service providers who are unrelated to their clients. ~~Such minimum standards for screening shall ensure that no direct service provider unrelated to his client has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:~~

~~(a) Section 782.04, relating to murder.~~

~~(b) Section 782.07, relating to manslaughter.~~

~~(c) Section 782.071, relating to vehicular homicide.~~

~~(d) Section 782.09, relating to killing of an unborn child by injury to the mother.~~

~~(e) Section 784.021, relating to aggravated assault.~~

~~(f) Section 784.045, relating to aggravated battery.~~

~~(g) Section 787.01, relating to kidnapping.~~

~~(h) Section 787.02, relating to false imprisonment.~~

~~(i) Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.~~

~~(j) Section 794.011, relating to sexual battery.~~

~~(k) Chapter 796, relating to prostitution.~~

~~(l) Section 798.02, relating to lewd and lascivious behavior.~~

~~(m) Chapter 800, relating to lewdness and indecent exposure.~~

~~(n) Section 806.01, relating to arson.~~

~~(o) Section 812.13, relating to robbery.~~

~~(p) Section 826.04, relating to incest.~~

~~(q) Section 827.03, relating to aggravated child abuse.~~

~~(r) Section 827.04, relating to child abuse.~~

~~(s) Section 827.05, relating to negligent treatment of children.~~

~~(t) Section 827.071, relating to sexual performance by a child.~~

~~(u) Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

~~(v) Chapter 847, relating to obscene literature.~~

~~(w) Section 784.011, relating to assault, if the victim of the offense was a minor.~~

~~(x) Section 784.03, relating to battery, if the victim of the offense was a minor.~~

~~(y) Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.~~

~~(z) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.~~

~~For the purposes of this section, a finding of delinquency or a plea of nolo contendere or other plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II, chapter 39, or a similar statute of another jurisdiction, for any of the foregoing acts has the same effect as a finding of guilt, regardless of adjudication or disposition.~~

~~(2) SCREENING STANDARDS.—Standards for screening shall also ensure that the person:~~

~~(a) Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37);~~

~~(b) Does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5) or abuse or neglect as defined in s. 415.503(6) which has been uncontested or upheld pursuant to the procedures provided in s. 415.103 or s. 415.504; or~~

~~(c) Has not committed an act which constitutes domestic violence as defined in s. 741.28.~~

(2)~~(3)~~ EXEMPTIONS FROM DISQUALIFICATION.—

~~(a) For the following,~~ The department may grant *exemptions* ~~to any person an exemption~~ from disqualification from working with children or the developmentally disabled *as provided in s. 435.07.*~~:~~

~~1. Felonies, other than specified felonies, prohibited under any of the foregoing Florida Statutes cited in subsection (1) or under similar statutes of other jurisdictions, committed more than 3 years previously. For the purposes of this subparagraph, "specified felony" means those felonies in the Florida Statutes, enumerated in paragraphs (1)(a), (b), (d), (j), (k), (m), (p), (q), (r), (t), (v), (y), and (z), or under any similar statute of another jurisdiction;~~

~~2. Misdemeanors prohibited under any of the foregoing Florida Statutes cited in this section or under similar statutes of other jurisdictions;~~

~~3. Offenses which were a felony when committed but are now a misdemeanor;~~

~~4. Findings of delinquency as specified in this section;~~

~~5. Judicial determinations of abuse or neglect under chapter 39;~~

~~6. Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or have been upheld pursuant to the procedures provided in s. 415.103 or s. 415.504; or~~

~~7. Commissions of domestic violence.~~

~~(b) In order to grant an exemption to a person, the department must have clear and convincing evidence to support a reasonable belief that the person is of good character so as to justify an exemption. The person shall bear the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the time period that has elapsed since the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident or such other circumstances that shall by the aforementioned standards indicate that the person will not present a danger to the safety or well-being of children. The decision of the department regarding an exemption may be contested through the hearing procedures set forth in chapter 120.~~

~~(c) The disqualification from employment provided in subsection (1) shall not be removed from any person found guilty of, regardless of adjudication, or having entered a plea of nolo contendere or guilty to, any felony covered by subsection (1) solely by reason of any pardon, executive clemency, or restoration of civil rights.~~

~~(4) REQUIREMENTS FOR DIRECT SERVICE PROVIDERS.—~~

~~(a) Direct service providers shall, within 5 working days after starting to work, submit to their employer for submission, within 48 hours, to the department a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the department who is trained to take fingerprints. The department shall submit the fingerprints to the Department of Law Enforcement for state processing and for federal processing by the Federal Bureau of Investigation. The department shall review the record of the person being screened with respect to the crimes contained in this section and shall notify the employer of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the person being screened, upon request of the department, to obtain and supply within 30 days the missing disposition information to the department. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.~~

~~(b) Under the penalty of perjury, such direct service provider shall attest to compliance with the minimum standards for good moral character as contained in this section.~~

~~(c) New direct service providers shall be on probationary status pending a determination of compliance with minimum standards for good moral character. Such new direct service providers found to be in noncompliance shall be automatically terminated from employment by their employer. Direct service providers who are self-employed shall have their certification, contract, agreement, or purchase order terminated if found to be in noncompliance.~~

~~(d) The department, upon request of an employer, shall provide written assurance of compliance with this section for new direct service providers who have been fingerprinted and screened for the employer for whom they previously worked. However, if the person has been unemployed for more than 60 days, screening shall be required.~~

(3)~~(5)~~ PAYMENT FOR PROCESSING OF FINGERPRINTS AND STATE CRIMINAL RECORDS CHECKS.—The costs of processing fingerprints and the state criminal records checks shall be borne by the employer or by the employee or individual who is being screened.

~~(6) CONFIDENTIALITY OF PERSONNEL SCREENING INFORMATION.—The department or the employer of a person who is being screened may not use the criminal records, juvenile records, or abuse registry information of a person obtained under this section for any purpose other than determining if that person meets the minimum standards for good moral character for direct service providers. The criminal records, juvenile records, or abuse registry information obtained by the department or employer for determining the moral character of direct service providers are exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

(4)~~(7)~~ EXCLUSION FROM OWNING, OPERATING, OR BEING EMPLOYED BY A DIRECT SERVICE PROVIDER RESIDENTIAL FACILITY; HEARINGS PROVIDED.—

(a) The department shall deny, suspend, terminate, or revoke a license, certification, rate agreement, purchase order, or contract, or pursue other remedies provided in s. 393.0673, s. 393.0675, or s. 393.0678 in addition to or in lieu of denial, suspension, termination, or revocation for failure to comply with this section.

(b) When the department has reasonable cause to believe that grounds for denial or termination of employment exist, it shall notify, in writing, the employer and the direct service provider affected, stating the specific record which indicates noncompliance with the standards in this section.

(c) The procedures established for hearing under chapter 120 shall be available to the employer and the direct service provider in order to present evidence relating either to the accuracy of the basis of exclusion or to the denial of an exemption from disqualification.

(d) Refusal on the part of an employer to dismiss a direct service provider who has been found to be in noncompliance with standards of this

section shall result in automatic denial, termination, or revocation of the license, certification, rate agreement, purchase order, or contract, in addition to any other remedies pursued by the department.

Section 34. Section 397.451, Florida Statutes, 1994 Supplement, is amended to read:

397.451 Background checks of service provider personnel who have direct contact with unmarried minor clients or clients who are developmentally disabled.—

(1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND EXCEPTIONS.—

(a) Service provider personnel who have direct contact with unmarried clients under the age of 18 years or with clients who are developmentally disabled are subject to background checks, except as otherwise provided in this section.

(b) Students in the health care professions who are interning under the actual physical presence supervision of a licensed health care professional in a service provider licensed under chapter 395, where the primary purpose of the service provider is not the treatment of unmarried minors or of persons who are developmentally disabled, are exempt from the fingerprinting and background check requirements.

(c) Personnel working in a service provider licensed under chapter 395 who have less than 15 hours per week of direct contact with unmarried minors or with persons who are developmentally disabled, or personnel who are health care professionals licensed by the Department of Business and Professional Regulation or a board thereunder who are not employed in a service provider where the primary purpose is the treatment of unmarried minors or of persons who are developmentally disabled are exempt from the fingerprinting and background check requirements.

(d) Members of a foster family and persons residing with the foster family who are between 12 and 18 years of age are not required to be fingerprinted but must have their backgrounds checked for delinquency records. Members of the foster family and persons residing with the foster family over 18 years of age are subject to full background checks.

(e) A volunteer who assists on an intermittent basis for fewer than 40 hours per month and is under direct and constant supervision by persons who meet all personnel requirements of this chapter is exempt from fingerprinting and background check requirements.

(f) Service providers that are exempt from licensing provisions of this chapter are exempt from personnel fingerprinting and background check requirements, except as otherwise provided in this section. A church or nonprofit religious organization exempt from licensure under this chapter is required to comply with personnel fingerprinting and background check requirements.

(g) Personnel employed by the Department of Corrections in a substance abuse service component who have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled are exempt from the fingerprinting and background check requirements of this section.

(2) EMPLOYMENT HISTORY CHECKS; CHECKS OF REFERENCES.—The department shall assess employment history checks and checks of references for all directors, and the directors shall assess employment history checks and checks of references for each employee who has direct contact with unmarried clients under the age of 18 years or with clients who are developmentally disabled.

(3) MINIMUM BACKGROUND CHECK STANDARDS.—

~~(a)~~ The department shall *require employment screening pursuant to chapter 435, using level 2 standards for screening set forth in that chapter,* ~~establish minimum standards for background checks~~ of service provider personnel who have direct contact with unmarried clients under the age of 18 years or with clients who are developmentally disabled.~~, which standards ensure that such personnel have not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under similar provisions of statutes of other jurisdictions:~~

~~1. Section 782.04, relating to murder.~~

~~2. Section 782.07, relating to manslaughter.~~

~~3. Section 782.071, relating to vehicular homicide.~~

~~4. Section 782.09, relating to killing of an unborn child by injury to the mother.~~

~~5. Section 784.021, relating to aggravated assault.~~

~~6. Section 784.045, relating to aggravated battery.~~

~~7. Section 787.01, relating to kidnapping.~~

~~8. Section 787.02, relating to false imprisonment.~~

~~9. Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.~~

~~10. Section 794.011, relating to sexual battery.~~

~~11. Section 794.041, relating to prohibited acts of persons in familial or custodial authority.~~

~~12. Chapter 796, relating to prostitution.~~

~~13. Section 798.02, relating to lewd and lascivious behavior.~~

~~14. Chapter 800, relating to lewdness and indecent exposure.~~

~~15. Section 806.01, relating to arson.~~

~~16. Section 812.13, relating to robbery.~~

~~17. Section 826.04, relating to incest.~~

~~18. Section 827.03, relating to aggravated child abuse.~~

~~19. Section 827.04, relating to child abuse.~~

~~20. Section 827.05, relating to negligent treatment of children.~~

~~21. Section 827.071, relating to sexual performance by a child.~~

~~22. Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

~~23. Chapter 847, relating to obscene literature.~~

~~24. Section 784.011, relating to assault, if the victim was a minor.~~

~~25. Section 784.03, relating to battery, if the victim was a minor.~~

~~26. Chapter 893, relating to drug abuse prevention and control, if the offense was a felony or if any other person involved in the offense was a minor.~~

~~27. Section 817.563, relating to fraudulent sale of controlled substances, if the offense was a felony.~~

~~For purposes of this paragraph, a finding of delinquency or a plea of nolo contendere or other plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II of chapter 39, or similar statutes of other jurisdictions, for any of the foregoing acts, has the same effect as a finding of guilt, regardless of adjudication or disposition.~~

~~(b) Standards for background checks must also ensure that the personnel:~~

~~1. Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37);~~

~~2. Does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5), or abuse or neglect as defined in s. 415.503(6), which has been uncontested or upheld pursuant to the procedures of s. 415.103 or s. 415.504; or~~

~~3. Has not committed an act that constitutes domestic violence as defined in s. 741.28.~~

~~(4) REQUIREMENTS FOR SERVICE PROVIDER PERSONNEL.—~~

~~(a) Service provider personnel must, within 5 working days after starting to work for a service provider, submit to the service provider a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the department who is trained to take fingerprints. The service provider must submit the fingerprints to the department within 48 hours after receiving them. The department must submit the fingerprints to the Department of Law Enforcement for state process-~~

~~ing and for federal processing by the Federal Bureau of Investigation. The department must review the criminal record of the personnel whose background is being checked and must notify the service provider within 7 days after receipt of criminal record information of its findings with respect to the crimes specified in this section. The personnel whose background is being checked must supply any missing criminal disposition information to the department within 30 days after the department makes a request for the information or be subject to automatic disqualification.~~

~~(b) All service provider personnel, under the penalty of perjury, must attest to compliance with the minimum standards set forth in this section.~~

~~(c) New service provider personnel are on probationary status pending a determination of compliance with minimum standards set forth in this section, and any such personnel who are found to be in noncompliance must be automatically terminated from employment by the service provider.~~

~~(d) The department, upon request of a service provider, shall provide written assurance of compliance with this section for personnel who are new at that service provider but who have been fingerprinted and had their backgrounds checked for another service provider at which they previously worked. However, personnel who have been unemployed for more than 90 days must have background checks in accordance with this section.~~

(4)~~(5)~~ PERSONNEL EXEMPT FROM BEING REFINGERPRINTED OR RECHECKED.—Service provider personnel who have been fingerprinted or had their backgrounds checked pursuant to chapter 393, chapter 394, chapter 402, or chapter 409, or this section, and teachers who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter and who, under the penalty of perjury, attest to the completion of such fingerprinting or background checks and to compliance with the provisions of this section and the standards contained in *chapter 435* ~~ss. 110.1127(3), 393.0655(1), 394.457(6), 402.305(1), 409.175(4),~~ and this section, are not required to be refingerprinted or rechecked in order to comply with service provider personnel fingerprinting or background check requirements.

~~(6) LISTING OF SERVICE PROVIDER PERSONNEL; AFFIDAVITS; OWNERS AND DIRECTORS.—~~

~~(a) Listing of personnel.—~~

~~1. Each service provider shall submit to the department:~~

~~a. A list identifying those personnel who have worked continuously for the service provider since submitting fingerprints to the department or who have a written assurance of compliance from the department, and~~

~~b. A list identifying those personnel who are awaiting the results of the required fingerprint check with the date on which those fingerprints were submitted for processing.~~

~~2. The department shall by rule establish the frequency with which service providers must submit the lists of personnel and the frequency with which the Department of Law Enforcement will be requested to run state criminal records checks for service provider personnel who are not already awaiting the results of initial fingerprint checks for employment by a service provider.~~

~~3. The department shall periodically review service provider personnel criminal records and shall notify the employing service provider of findings with respect to any crime specified in this section. When disposition information is missing on a criminal record, the person whose background is being checked, upon request of the department, must supply the missing disposition information to the department within 30 days after the request is made or be subject to automatic disqualification.~~

~~(b) Affidavits.—The director of each service provider must sign an affidavit annually, under penalty of perjury, stating that all new personnel have been fingerprinted and that the service provider's remaining personnel either have worked at the service provider continuously since initially having their background checks at that service provider or have a written assurance of compliance from the department.~~

~~(c) Owners and directors.—As a prerequisite to licensure of a new service provider, the department shall review the records of the owner and the director with respect to the crimes specified in this section and shall notify the owner and the director of its findings. It is the responsibility of the owner and the director, upon request of the department, to supply any missing disposition information to the department within 30 days after the department requests such information or be subject to automatic disqualification.~~

~~(7) EXCLUSION FROM BEING EMPLOYED BY A SERVICE PROVIDER; HEARING.—~~

~~(a) When the department has reasonable cause to believe that grounds exist for the denial or termination of employment of any service provider personnel, it shall notify the service provider and the affected personnel in writing, stating the specific record which indicates noncompliance with the standards in this section.~~

~~(b) The procedures established for a hearing under chapter 120 may be used by the service provider and the affected personnel to present evidence relating either to the accuracy of the basis for exclusion or to the denial of an exemption from disqualification.~~

~~(c) The service provider must automatically terminate the employment of any of its personnel found to be in noncompliance with the minimum standards contained in this section.~~

(5)~~(8)~~ EXEMPTIONS FROM DISQUALIFICATION.—

(a) The department may grant to any service provider personnel an exemption from disqualification from working with children or the developmentally disabled *as provided in s. 435.07.* ~~for:~~

~~1. Felonies, other than specified felonies, prohibited under any of the Florida Statutes cited in this section or under similar statutes of other jurisdictions, committed more than 3 years previously. For the purposes of this subparagraph, "specified felony" means those felonies in the Florida Statutes enumerated in subparagraphs (3)(a)1., 2., 4., 10., 11., 12., 14., 17., 18., 19., 21., 23., 26., and 27. or under any similar statute of another jurisdiction;~~

~~2. Misdemeanors prohibited under any of the Florida Statutes cited in this section or under similar statutes of other jurisdictions;~~

~~3. Offenses that were felonies when committed but are now misdemeanors;~~

~~4. Findings of delinquency as specified in this subsection;~~

~~5. Judicial determinations of abuse or neglect under chapter 39;~~

~~6. Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or which have been upheld pursuant to the procedures provided in s. 415.103 or s. 415.504; or~~

~~7. Commissions of domestic violence.~~

(b) Since rehabilitated substance abuse impaired persons are effective in the successful treatment and rehabilitation of substance abuse impaired adolescents, for service providers which treat adolescents 13 years of age and older, service provider personnel whose background checks indicate crimes under s. 817.563, s. 893.13, or s. 893.147, may be exempted from disqualification from employment pursuant to this paragraph.

~~(c) In order to grant an exemption to any service provider personnel, the department must have clear and convincing evidence to support a reasonable belief that such personnel justifies an exemption. Service provider personnel seeking an exemption have the burden of setting forth sufficient evidence of rehabilitation, including but not limited to the circumstances surrounding the criminal incident for which an exemption is sought, the time period that has elapsed since the incident, the nature of the harm caused to the victim, and the history of the personnel since the incident, or other circumstances indicating that the personnel will not present a danger to the safety or well-being of children. The decision of the department regarding an exemption may be contested through the hearing procedures set forth in chapter 120.~~

~~(d) Disqualification from employment under subsection (3) may not be removed from nor may an exemption be granted to any personnel found guilty of, regardless of adjudication, or who has entered a plea of nolo contendere or guilty to, any felony covered by subsection (3) solely by reason of any pardon, executive clemency, or restoration of civil rights.~~

(6)~~(9)~~ PAYMENT FOR PROCESSING OF FINGERPRINTS AND STATE CRIMINAL RECORDS CHECKS.—The employing service pro-

vider or the personnel who are having their backgrounds checked are responsible for paying the costs of processing fingerprints and criminal records checks.

~~(10) CONFIDENTIALITY OF PERSONNEL BACKGROUND CHECK INFORMATION.—No criminal, juvenile, or abuse registry information obtained under this section may be used for any purpose other than determining if personnel meet the minimum standards for service provider personnel or for an owner or director of a service provider. The criminal records, juvenile records, and abuse registry information obtained by the department or by a service provider for service provider personnel or an owner or director of a service provider are exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

(7)~~(11)~~ DISQUALIFICATION FROM RECEIVING STATE FUNDS.—State funds may not be disseminated to any service provider owned or operated by an owner or director who has been convicted of, has entered a plea of guilty or nolo contendere to, or has had adjudication withheld for, a violation of s. 893.135 pertaining to trafficking in controlled substances, or a violation of the law of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction which is substantially similar in elements and penalties to a trafficking offense in this state, unless the owner's or director's civil rights have been restored.

Section 35. Subsection (6) of section 394.457, Florida Statutes, 1994 Supplement, is amended to read:

394.457 Operation and administration.—

(6) SCREENING OF MENTAL HEALTH PERSONNEL.—

(a) The department shall *require employment screening pursuant to chapter 435, using the standards for level 1 screening set forth in that chapter.* ~~establish minimum standards as to good moral character, based on screening, for mental health personnel. Such minimum standards for screening shall ensure that no mental health personnel have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:~~

~~1. Section 782.04, relating to murder.~~

~~2. Section 782.07, relating to manslaughter.~~

~~3. Section 782.071, relating to vehicular homicide.~~

~~4. Section 782.09, relating to killing of an unborn child by injury to the mother.~~

~~5. Section 784.021, relating to aggravated assault.~~

~~6. Section 784.045, relating to aggravated battery.~~

~~7. Section 787.01, relating to kidnapping.~~

~~8. Section 787.02, relating to false imprisonment.~~

~~9. Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.~~

~~10. Section 794.011, relating to sexual battery.~~

~~11. Chapter 796, relating to prostitution.~~

~~12. Section 798.02, relating to lewd and lascivious behavior.~~

~~13. Chapter 800, relating to lewdness and indecent exposure.~~

~~14. Section 806.01, relating to arson.~~

~~15. Section 812.13, relating to robbery.~~

~~16. Section 826.04, relating to incest.~~

~~17. Section 827.03, relating to aggravated child abuse.~~

~~18. Section 827.04, relating to child abuse.~~

~~19. Section 827.05, relating to negligent treatment of children.~~

~~20. Section 827.071, relating to sexual performance by a child.~~

~~21. Section 415.11, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

~~22. Chapter 847, relating to obscene literature.~~

~~23. Section 784.011, relating to assault, if the victim of the offense was a minor.~~

~~24. Section 784.03, relating to battery, if the victim of the offense was a minor.~~

~~25. Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.~~

~~26. Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.~~

~~For the purposes of this subsection, a finding of delinquency or a plea of nolo contendere or other plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II, chapter 39, or similar statutes of another jurisdiction, for any of the foregoing acts has the same effect as a finding of guilt, regardless of adjudication or disposition.~~

~~(b) Standards for screening shall also ensure that the person:~~

~~1. Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37); or~~

~~2. Does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5) or abuse or neglect as defined in s. 415.503(6) which has been uncontested or upheld pursuant to the procedures of s. 415.103 or s. 415.504; or~~

~~3. Has not committed an act which constitutes domestic violence as defined in s. 741.28.~~

(b)~~(c)1. For the following,~~ The department may grant *exemptions* ~~to any person an exemption~~ from disqualification *as provided in s. 435.06.* ~~from working with children or the developmentally disabled:~~

~~a. Felonies, other than specified felonies, prohibited under any of the foregoing Florida Statutes cited in paragraph (a) or under similar statutes of other jurisdictions, committed more than 3 years previously. For the purposes of this sub-subparagraph, "specified felony" means those felonies in the Florida Statutes enumerated in subparagraphs (a)1., 2., 4., 10., 11., 13., 16., 17., 18., 20., 22., 25., and 26., or under any similar statute of another jurisdiction;~~

~~b. Misdemeanors prohibited under any of the foregoing Florida Statutes cited in this subsection or under similar statutes of other jurisdictions;~~

~~c. Offenses which were a felony when committed but are now a misdemeanor;~~

~~d. Findings of delinquency as specified in this subsection;~~

~~e. Judicial determinations of abuse or neglect under chapter 39;~~

~~f. Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or have been upheld pursuant to the procedures provided in s. 415.103 or s. 415.504; or~~

~~g. Commissions of domestic violence.~~

~~2. In order to grant an exemption to a person, the department must have clear and convincing evidence to support a reasonable belief that the person is of good character so as to justify an exemption. The person shall bear the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the time period that has elapsed since the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident or such other circumstances that shall by the aforementioned standards indicate that the person will not present a danger to the safety or well being of children. The decision of the department regarding an exemption may be contested through a hearing under chapter 120.~~

~~(d) The disqualification from employment provided in paragraph (a) shall not be removed from any person found guilty of, regardless of adjudication, or having entered a plea of nolo contendere or guilty to, any felony covered by paragraph (a) solely by reason of any pardon, executive clemency, or restoration of civil rights.~~

~~(e) The department shall ensure that mental health personnel meet the minimum standards for good moral character as contained in this section.~~

~~1. Each private or public mental health program and facility shall submit to the department a list of mental health personnel for whom a written assurance of compliance was provided by the department and identifying those mental health personnel who have worked on a continuous basis at the program or facility since submitting fingerprints to the department, identifying those mental health personnel who have recently begun working at the program or facility and are awaiting the results of the required fingerprint check along with the date of the submission of those fingerprints for processing. The department shall by rule determine the frequency with which programs and facilities shall submit such lists of mental health personnel and the frequency of requests to the Department of Law Enforcement to run state criminal records checks for such mental health personnel except for those mental health personnel awaiting the results of initial fingerprint checks for employment at the program or facility. The department shall review the records of the mental health personnel at the program or facility with respect to the crimes contained in this section and shall notify the program or facility of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the person being screened, upon request of the department, to obtain and supply within 30 days the missing disposition information to the department. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.~~

~~2. The program director of each public or private mental health program and facility shall sign an affidavit annually, under penalty of perjury, stating that all new mental health personnel have been fingerprinted and that the program's or facility's remaining mental health personnel either have worked at the program or facility on a continuous basis since being initially screened at that program or facility or have a written assurance of compliance from the department.~~

~~(f) As a prerequisite to operating a new public or private mental health program or facility:~~

~~1. The owner or program director shall submit to the department a complete set of fingerprints, taken by an authorized law enforcement agency or an employee of the department who is trained to take fingerprints, for the program director of the program or facility;~~

~~2. The department shall submit the fingerprints to the Department of Law Enforcement for state processing and for federal processing by the Federal Bureau of Investigation; and~~

~~3. The department shall review the record of the program director with respect to the crimes contained in this section and shall notify the owner or program director of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the program director, upon request of the department, to obtain and supply within 30 days the missing disposition information to the department. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.~~

~~(g) The public or private mental health program or facility shall automatically terminate the employment of any of its mental health personnel found to be in noncompliance with the minimum standards for good moral character as contained in this section.~~

~~(h) Mental health personnel shall, within 5 working days after starting to work at a public or private mental health program or facility, submit to the program or facility for submission, within 48 hours, to the department a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the department who is trained to take fingerprints. The department shall submit the fingerprints to the Department of Law Enforcement for state processing and for federal processing by the Federal Bureau of Investigation. The department shall review the record of the person being screened with respect to the crimes contained in this section and shall notify the program or facility of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the person being screened, upon request of the department, to obtain and supply within 30 days the missing disposition information to the department. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.~~

~~1. Under the penalty of perjury, such mental health personnel shall attest to compliance with the minimum standards for good moral character as contained in this section.~~

~~2. New mental health personnel shall be on probationary status pending a determination of compliance with minimum standards for good moral character.~~

~~3. The department, upon request of a program or facility, shall provide written assurance of compliance with this section for new mental health personnel who have been fingerprinted and screened for the program or facility at which they previously worked. However, if the person has been unemployed for more than 60 days, screening shall be required.~~

~~(i) The costs of processing fingerprints and the state criminal records checks shall be borne by the program or facility or the mental health personnel being screened.~~

~~(j) When the department has reasonable cause to believe that grounds for denial or termination of employment exist, it shall notify, in writing, the program or facility and the mental health personnel affected, stating the specific record which indicates noncompliance with the standards in this section. The procedures established for hearing under chapter 120 shall be available to the program or facility and the mental health personnel affected in order to present evidence relating either to the accuracy of the basis of exclusion or to the denial of an exemption from disqualification.~~

~~(k) The department or a mental health program or facility may not use the criminal records, juvenile records, or abuse registry information of a person obtained under this subsection for any purpose other than determining if that person meets the minimum standards for good moral character for mental health personnel. The criminal records, juvenile records, or abuse registry information obtained by the department or a mental health program or facility for determining the moral character of mental health personnel are exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

~~(l) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully, knowingly, or intentionally to:~~

~~1. Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment a material fact used in making a determination as to such person's qualifications to be a program director, staff member, or volunteer in a public or private mental health program or facility;~~

~~2. Operate or attempt to operate a public or private mental health program or facility with mental health personnel who are in noncompliance with the minimum standards for good moral character as contained in this section; or~~

~~3. Use information from the criminal records or central abuse registry obtained under this section for any purpose other than screening that person for employment as specified in this section or release such information to any other person for any purpose other than screening for employment as specified in this section.~~

~~(m) It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use information from the juvenile records of a person obtained under this section for any purpose other than screening for employment as specified in this section or to release information from such records to any other person for any purpose other than screening for employment as specified in this section.~~

Section 36. Subsection (2) of section 400.211, Florida Statutes, 1994 Supplement, is amended to read:

400.211 Persons employed as nursing assistants; certification requirement.—

(2) The *agency* ~~Department of Business and Professional Regulation~~ may deny, suspend, or revoke the certification of any person to serve as a nursing assistant ~~in a nursing home~~, based upon written notification from a court of competent jurisdiction, law enforcement agency, or administrative agency of *any finding of guilt of, regardless of adjudication,* ~~an adjudication of guilt~~ or a plea of nolo contendere *or guilty* to, *any offense set forth in the level 1 screening standards of chapter 435 or any*

confirmed report of abuse of a vulnerable adult: ~~homicide, mayhem, animal abuse, child abuse, abuse of the elderly or developmentally disabled, aggravated battery, felonious assault, any felony involving a firearm, or any confirmed report of abuse or neglect of an aged person, a developmentally disabled person, or a child~~.

Section 37. Paragraph (e) of subsection (2) of section 400.414, Florida Statutes, 1994 Supplement, is amended to read:

400.414 Denial, revocation, or suspension of license; imposition of administrative fine; grounds.—

(2) Any of the following actions by a facility or its employee shall be grounds for action by the agency against a licensee:

(e) A confirmed report of adult abuse, neglect, or exploitation, as defined in s. 415.102, ~~or child abuse or neglect, as defined in s. 415.503,~~ which has been upheld following a chapter 120 hearing or a waiver of such proceedings where the perpetrator is an employee, volunteer, administrator, or owner, or otherwise has access to the residents of a facility, and the administrator has not taken action to remove the perpetrator. *Exemptions from disqualification may be granted as set forth in s. 435.07.* ~~A perpetrator may seek an exemption from disqualification through the procedures provided in s. 415.107(5)(b).~~ No administrative action may be taken against the facility if the perpetrator is granted an exemption.

Section 38. Section 400.512, Florida Statutes, 1994 Supplement, is amended to read:

400.512 Screening of home health agency personnel, nurse registry personnel, and sitters, companions, and homemakers.—The Agency for Health Care Administration shall *require employment screening as provided in chapter 435, using the level 1 standards for screening set forth in that chapter,* ~~establish minimum standards of good moral character~~ for home health agency personnel, persons referred for employment by nurse registries, and persons employed by sitter, companion, or homemaker services registered under s. 400.509.

~~(1) The minimum standards must ensure that all persons who, at any time, enter the home of a patient in the capacity of their employment have not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:~~

~~(a) Section 415.111, relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.~~

~~(b) Section 782.04, relating to murder.~~

~~(c) Section 782.07, relating to manslaughter.~~

~~(d) Section 782.071, relating to vehicular homicide.~~

~~(e) Section 782.09, relating to killing of an unborn child by injury to the mother.~~

~~(f) Section 784.011, relating to assault, if the victim of the offense was a minor.~~

~~(g) Section 784.021, relating to aggravated assault.~~

~~(h) Section 784.03, relating to battery, if the victim of the offense was a minor.~~

~~(i) Section 784.045, relating to aggravated battery.~~

~~(j) Section 787.01, relating to kidnapping.~~

~~(k) Section 787.02, relating to false imprisonment.~~

~~(l) Section 794.011, relating to sexual battery.~~

~~(m) Section 794.041, relating to prohibited acts of persons in familial or custodial authority.~~

~~(n) Chapter 796, relating to prostitution.~~

~~(o) Section 798.02, relating to lewd and lascivious behavior.~~

~~(p) Chapter 800, relating to lewdness and indecent exposure.~~

~~(q) Section 806.01, relating to arson.~~

~~(r) Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.~~

~~(s) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.~~

~~(t) Section 826.04, relating to incest.~~

~~(u) Section 827.03, relating to aggravated child abuse.~~

~~(v) Section 827.04, relating to child abuse.~~

~~(w) Section 827.05, relating to negligent treatment of children.~~

~~(x) Section 827.071, relating to sexual performance by a child.~~

~~(y) Chapter 847, relating to obscene literature.~~

~~(z) Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.~~

~~(2) Standards must also ensure that the person:~~

~~(a) Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37).~~

~~(b) Does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5), or abuse or neglect as defined in s. 415.503(6), which has been uncontested or upheld under s. 415.103 or s. 415.504.~~

~~(c) Has not committed an act that constitutes domestic violence as defined in s. 741.28.~~

(1)~~(3)(a)~~ The Agency for Health Care Administration may grant *exemptions* ~~to any person an exemption~~ from disqualification from employment under this section *as provided in s. 435.07.* ~~for:~~

~~1. A felony prohibited under any of the statutes cited in subsection (1) or under similar statutes of other jurisdictions;~~

~~2. Misdemeanors prohibited or referenced under any of the statutes cited in this section;~~

~~3. Offenses that were felonies when committed;~~

~~4. Judicial determinations of abuse or neglect under chapter 39;~~

~~5. Confirmed reports of abuse, neglect, or exploitation under chapter 415 that have been uncontested or have been upheld under the procedures provided in s. 415.103 or s. 415.504; or~~

~~6. Commissions of domestic violence.~~

~~(b) To exempt a person, the Agency for Health Care Administration must have clear and convincing evidence to support a reasonable belief that the person is of good moral character, has been rehabilitated, and poses no danger to the health or safety of patients. The person has the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the time period that has elapsed since the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident or such other circumstances that under applicable rules indicates that the person will not present a danger to the safety or well-being of patients. The decision of the Agency for Health Care Administration regarding an exemption may be contested through a hearing under chapter 120.~~

~~(4) The disqualification from employment provided in subsection (1) may not be removed from any person found guilty of, regardless of adjudication, any felony covered by subsection (1) solely by reason of any pardon, executive clemency, or restoration of civil rights.~~

~~(5)(a) A person employed by home health agencies or by sitter, companion, or homemaker services registered under s. 400.509 shall, within 5 working days after starting to work, submit to the home health agency or registrant, a complete set of information necessary to conduct a screening under this section. The person must sign an affidavit stating whether the person meets the minimum standards for good moral character under this section. The home health agency or registrant shall submit the information to the Department of Law Enforcement and to the department's central abuse registry and tracking system for processing. If disposition information is missing on a criminal record, it is the responsibility of the person being screened to obtain and supply within 30 days the missing~~

~~information. Failure to supply the missing information or to show reasonable efforts to obtain such information will result in automatic disqualification for employment.~~

~~1. Home health agency personnel or persons employed by sitter, companion, or homemaker services registered under s. 400.509, hired on or after October 1, 1989, must be placed on probationary status pending a determination of compliance with minimum standards for good moral character.~~

~~2. The home health agency or registrant must automatically terminate the employment of any of its personnel found to be in noncompliance with the minimum standards for good moral character under this section unless such person has obtained an exemption under subsection (3).~~

(2)~~3.~~ The administrator of each home health agency or sitter, companion, or homemaker service registered under s. 400.509 must sign an affidavit annually, under penalty of perjury, stating that all personnel hired on or after October 1, 1989, *who enter the home of a patient in the capacity of their employment* have been screened and that its remaining personnel have worked for the home health agency or registrant continuously since before October 1, 1989.

~~(b) Persons to be referred for employment as independent contractors by nurse registries, including persons seeking employment as sitters, companions, or homemakers, must submit to the nurse registry a complete set of information necessary to conduct a screening under this section. Each such person must sign an affidavit stating whether he meets the minimum standards for good moral character under this section. The nurse registry shall submit the information to the Department of Law Enforcement and to the department's central abuse registry and tracking system for processing. If disposition information is missing on a criminal record, it is the responsibility of the person being screened to obtain and supply within 30 days the missing information. Failure to supply the missing information or to show reasonable efforts to obtain such information will result in automatic disqualification for employment. An initial screening shall not be required for a person who has been continuously registered with the nurse registry since September 30, 1990.~~

~~1. The nurse registry may not refer for employment any person found not in compliance with the minimum standards for good moral character as contained in this section unless such person has obtained an exemption under subsection (3).~~

~~2. The administrator of a nurse registry must sign an affidavit annually, under penalty of perjury, stating that all persons referred for employment, except those persons who have been continuously registered with the nurse registry since September 30, 1990, have been screened.~~

(3)~~(6)~~ As a prerequisite to operating as a home health agency, or sitter, companion, or homemaker service under s. 400.509, the administrator must submit to the Agency for Health Care Administration *their* ~~his~~ name and any other information necessary to conduct a complete screening according to this section. The Agency for Health Care Administration shall submit the information to the Department of Law Enforcement and the department's abuse *hotline* ~~registry and tracking system~~ for state processing. The Agency for Health Care Administration shall review the record of the administrator with respect to the offenses specified in this section and shall notify the owner of its findings. If disposition information is missing on a criminal record, the administrator, upon request of the Agency for Health Care Administration, must obtain and supply within 30 days the missing disposition information to the Agency for Health Care Administration. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information will result in automatic disqualification.

(4)~~(7)~~ Proof of compliance with the screening requirements of *chapter 435* ~~s. 39.076, s. 110.1127, s. 393.0655, s. 394.457, s. 396.0425, s. 397.0715, s. 402.305, s. 402.313, or s. 409.175 or this part~~ shall be accepted in lieu of the requirements of this section provided that such person has been continuously employed ~~in the same type of occupation for which he is seeking employment with the nurse registry~~ without a breach in service that exceeds 180 days. Proof of compliance with the screening requirements of this section shall be provided upon request to the person screened by the home health agencies, nurse registries, or sitter, companion, or homemaker services registered under s. 400.509.

(5)~~(8)~~ There is no monetary liability on the part of, and no cause of action for damages arises against, a licensed home health agency, or sitter, companion, or homemaker service registered under s. 400.509, that, upon notice of a confirmed report of *adult* abuse, neglect, or exploitation under paragraph (2)(b), terminates the employee against whom the report was issued, whether or not the employee has filed for an exemption with the Agency for Health Care Administration under subparagraph (3)(a)5. and whether or not the time for filing has expired.

(6)~~(9)~~ The costs of processing the statewide correspondence criminal records checks and the search of the department's central abuse *hotline* ~~registry and tracking system~~ must be borne by the home health agency, the nurse registry, or sitter, companion, or homemaker service registered under s. 400.509, or by the person being screened, at the discretion of the home health agency, nurse registry, or s. 400.509 registrant.

(7)~~(10)~~ The Agency for Health Care Administration, the home health agency, nurse registry, or sitter, companion, or homemaker service registered under s. 400.509, may not use the criminal records, juvenile records, or central abuse *hotline* ~~registry~~ information of a person for any purpose other than determining whether that person meets minimum standards of good moral character for home health agency personnel. The criminal records, juvenile records, or central abuse *hotline* ~~registry~~ information obtained by the Agency for Health Care Administration, home health agency, nurse registry, or sitter, companion, or homemaker service for such purpose is exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(8)~~(11)~~(a) It is a misdemeanor of the first degree, punishable under s. 775.082 or s. 775.083, for any person willfully, knowingly, or intentionally to:

1. Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment a material fact used in making a determination as to such person's qualifications to be an employee under this section;

2. Operate or attempt to operate an entity licensed or registered under this part with persons who do not meet the minimum standards for good moral character as contained in this section; or

3. Use information from the criminal records or central abuse *hotline* ~~registry~~ obtained under this section for any purpose other than screening that person for employment as specified in this section or release such information to any other person for any purpose other than screening for employment under this section.

(b) It is a felony of the third degree, punishable under s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use information from the juvenile records of a person obtained under this section for any purpose other than screening for employment under this section.

Section 39. Subsection (2) of section 402.305, Florida Statutes, 1994 Supplement, is amended to read:

402.305 Licensing standards; child care facilities.—

(2) PERSONNEL.—Minimum standards for child care personnel shall include minimum requirements as to:

(a) Good moral character based upon screening. *This screening shall be conducted as provided in chapter 435, using the level 2 standards for screening set forth in that chapter.* ~~Such minimum standards for screening shall ensure that no child care personnel at a child care facility or other child care program have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under a similar statute of another jurisdiction:~~

~~1. Section 782.04, relating to murder.~~

~~2. Section 782.07, relating to manslaughter.~~

~~3. Section 782.071, relating to vehicular homicide.~~

~~4. Section 782.09, relating to killing of an unborn child by injury to the mother.~~

~~5. Section 784.021, relating to aggravated assault.~~

~~6. Section 784.045, relating to aggravated battery.~~

~~7. Section 787.01, relating to kidnapping.~~

~~8. Section 787.02, relating to false imprisonment.~~

~~9. Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.~~

~~10. Section 794.011, relating to sexual battery.~~

~~11. Chapter 796, relating to prostitution.~~

~~12. Section 798.02, relating to lewd and lascivious behavior.~~

~~13. Chapter 800, relating to lewdness and indecent exposure.~~

~~14. Section 806.01, relating to arson.~~

~~15. Section 812.13, relating to robbery.~~

~~16. Section 826.04, relating to incest.~~

~~17. Section 827.03, relating to aggravated child abuse.~~

~~18. Section 827.04, relating to child abuse.~~

~~19. Section 827.05, relating to negligent treatment of children.~~

~~20. Section 827.071, relating to sexual performance by a child.~~

~~21. Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

~~22. Chapter 847, relating to obscene literature.~~

~~23. Section 784.011, relating to assault, if the victim of the offense was a minor.~~

~~24. Section 784.03, relating to battery, if the victim of the offense was a minor.~~

~~25. Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.~~

~~26. Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.~~

~~For purposes of this subsection, a finding of delinquency or a plea of nolo contendere or other plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II of chapter 39 or similar statutes of other jurisdictions, for any of the foregoing acts, has the same effect as a finding of guilt, regardless of adjudication or disposition.~~

~~(b) Standards for screening shall also ensure that the person:~~

~~1. Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37); or~~

~~2. Does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5) or abuse or neglect as defined in s. 415.503(6) which has been uncontested or upheld pursuant to the procedures of s. 415.103 or s. 415.504; or~~

~~3. Has not committed an act which constitutes domestic violence as defined in s. 741.28.~~

(b)~~(c)1. For the following,~~ The department may grant *exemptions* ~~to any person an exemption~~ from disqualification from working with children or the developmentally disabled *as provided in s. 435.07.*~~:~~

~~a. Felonies, other than specified felonies, prohibited under any of the foregoing Florida Statutes cited in paragraph (a) or under similar statutes of other jurisdictions, committed more than 3 years previously. For the purposes of this sub-subparagraph, "specified felony" means those felonies in the Florida Statutes enumerated in subparagraphs (a)1., 2., 4., 10., 11., 13., 16., 17., 18., 20., 22., 25., and 26., or under any similar statute of another jurisdiction;~~

~~b. Misdemeanors prohibited under any of the Florida Statutes cited in this subsection or under similar statutes of other jurisdictions;~~

~~c. Offenses which were a felony when committed but are now a misdemeanor;~~

~~d. Findings of delinquency as specified in this subsection;~~

~~e. Judicial determinations of abuse or neglect under chapter 39;~~

~~f. Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or have been upheld pursuant to the procedures provided in s. 415.103 or s. 415.504; or~~

~~g. Commissions of domestic violence.~~

~~2. In order to grant an exemption to a person, the department must have clear and convincing evidence to support a reasonable belief that the person is of good character so as to justify an exemption. The person shall bear the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the time period that has elapsed since the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident, or such other circumstances that shall by the aforementioned standards indicate that the person will not present a danger to the safety or well being of children. The decision of the department regarding an exemption may be contested through the hearing procedures set forth in chapter 120. The decision of the local licensing board may be contested through the hearing procedures in s. 402.3055.~~

~~(d) The disqualification from employment provided in paragraph (a) shall not be removed from any person found guilty of, regardless of adjudication, or having entered a plea of nolo contendere or guilty to, any felony covered by paragraph (a) solely by reason of any pardon, executive clemency, or restoration of civil rights.~~

(c)~~(e)~~ Minimum age requirements. Such minimum standards shall prohibit a person under the age of 21 from being the operator of a child care facility and a person under the age of 16 from being employed at such facility unless such person is under direct supervision and is not counted for the purposes of computing the personnel to child ratio.

(d)~~(f)~~ Minimum staff training requirements.

1. Such minimum standards for training shall ensure that all child care personnel and operators of family day care homes serving at-risk children in a subsidized child care program pursuant to s. 402.3015 take an approved 30-clock-hour introductory course in child care, which course covers at least the following topic areas:

a. State and local rules and regulations which govern child care.

b. Health, safety, and nutrition.

c. Identifying and reporting child abuse and neglect.

d. Child development, including typical and atypical language, cognitive, motor, social, and self-help skills development.

e. Specialized areas, as determined by the department, for owner-operators and child care personnel of a child care facility.

Within 90 days of employment, child care personnel shall begin training to meet the training requirements and shall complete such training within 1 year of the date on which the training began. Exemption from all or a portion of the required training shall be granted to child care personnel based upon educational credentials or passage of competency examinations.

2. The introductory course in child care shall stress, to the extent possible, an interdisciplinary approach to the study of children.

3. On an annual basis in order to further their child care skills and, if appropriate, administrative skills, child care personnel who have fulfilled the requirements for the child care training shall be required to take an additional approved 8 clock hours of inservice training or an equivalent as determined by the department.

4. Procedures for ensuring the training of qualified child care professionals to provide training of child care personnel, including onsite training, shall be included in the minimum standards. It is recommended that the state community child care coordination agencies (central agencies) be contracted by the department to coordinate such training when possible. Other district educational resources, such as community colleges and vocational-technical programs, can be designated in such areas where central agencies may not exist or are determined not to have the capability to meet the coordination requirements set forth by the department.

5. Training requirements shall not apply to certain occasional or part-time support staff, including, but not limited to, swimming instructors, piano teachers, dance instructors, and gymnastics instructors.

6. The State Coordinating Council for Early Childhood Services, in coordination with the department, shall evaluate or contract for an evaluation for the general purpose of determining the status of and means to improve staff training requirements and testing procedures. The evalua-

tion shall be completed by October 1, 1992, and conducted every 2 years thereafter. The evaluation shall include, but not be limited to, determining the availability, quality, scope, and sources of current staff training; determining the need for specialty training; and determining ways to increase inservice training and ways to increase the accessibility, quality, and cost-effectiveness of current and proposed staff training. The evaluation methodology shall include a reliable and valid survey of child care personnel.

(e)~~(g)~~ Periodic health examinations.

Section 40. Paragraph (j) of subsection (2) and subsections (4) and (5) of section 409.175, Florida Statutes, 1994 Supplement, are amended to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies.—

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

(j) "Screening" means the act of assessing the background of personnel and includes, but is not limited to, employment history checks *as provided in chapter 435, using the level 2 standards for screening set forth in that chapter.* ~~checks of references, local criminal records checks through local law enforcement agencies, fingerprinting for all purposes and checks in this paragraph, statewide criminal records checks through the Department of Law Enforcement, federal criminal records checks through the Federal Bureau of Investigation, and abuse registry clearance, except that~~ Screening for employees and volunteers in summer day camps and summer 24-hour camps and screening for all volunteers included under the definition of "personnel" *shall be conducted as provided in chapter 435, using the level 1 standards set forth in that chapter.* ~~includes only local criminal records checks through local law enforcement agencies for current residence and residence immediately prior to employment if different, statewide criminal records correspondence checks through the Department of Law Enforcement, and abuse registry clearance. Employment history checks and checks of references shall be assessed by the owner or operator for each employee and by the department for all owners and operators.~~

(4)(a) The department shall adopt and amend licensing rules for family foster homes, residential child-caring agencies, and child-placing agencies. The department may also adopt rules relating to the screening requirements for summer day camps and summer 24-hour camps. The requirements for licensure and operation of family foster homes, residential child-caring agencies, and child-placing agencies shall include:

1. The operation, conduct, and maintenance of these homes and agencies and the responsibility which they assume for children served and the evidence of need for that service.

2. The provision of food, clothing, educational opportunities, services, equipment, and individual supplies to assure the healthy physical, emotional, and mental development of the children served.

3. The appropriateness, safety, cleanliness, and general adequacy of the premises, including fire prevention and health standards, to provide for the physical comfort, care, and well-being of the children served.

4. The ratio of staff to children required to provide adequate care and supervision of the children served and, in the case of foster homes, the maximum number of children in the home.

~~5. The education, training, and experience requirements of persons responsible for the care and well-being of the children served.~~

5.~~6.~~ The good moral character based upon screening, education, training, and experience requirements for personnel. ~~At a minimum, screening shall ensure that no personnel at a child placing agency, family foster home, residential child caring agency, summer day camp, or summer 24-hour camp providing care for children have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:~~

~~a. Section 782.04, relating to murder.~~

~~b. Section 782.07, relating to manslaughter.~~

~~c. Section 782.071, relating to vehicular homicide.~~

~~d. Section 782.09, relating to killing of an unborn child by injury to the mother.~~

~~e. Section 784.011, relating to assault, if the victim of the offense was a minor.~~

~~f. Section 784.021, relating to aggravated assault.~~

~~g. Section 784.03, relating to battery, if the victim of the offense was a minor.~~

~~h. Section 784.045, relating to aggravated battery.~~

~~i. Section 787.01, relating to kidnapping.~~

~~j. Section 787.02, relating to false imprisonment.~~

~~k. Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.~~

~~l. Section 794.011, relating to sexual battery.~~

~~m. Chapter 796, relating to prostitution.~~

~~n. Section 798.02, relating to lewd and lascivious behavior.~~

~~o. Chapter 800, relating to lewdness and indecent exposure.~~

~~p. Section 806.01, relating to arson.~~

~~q. Section 812.13, relating to robbery.~~

~~r. Section 826.04, relating to incest.~~

~~s. Section 827.03, relating to aggravated child abuse.~~

~~t. Section 827.04, relating to child abuse.~~

~~u. Section 827.05, relating to negligent treatment of children.~~

~~v. Section 827.071, relating to sexual performance by a child.~~

~~w. Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

~~x. Chapter 847, relating to obscene literature.~~

~~y. Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.~~

~~z. Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.~~

~~For the purposes of this subparagraph, a finding of delinquency or a plea of nolo contendere or other plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II, chapter 39, or a similar statute of another jurisdiction, for any of the foregoing acts has the same effect as a finding of guilt, regardless of adjudication or disposition.~~

~~7. Standards for screening shall also ensure that the person:~~

~~a. Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37); or~~

~~b. Does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5) or abuse or neglect as defined in s. 415.503(6) which has been uncontested or upheld pursuant to the procedures of s. 415.103 or s. 415.504; or~~

~~c. Has not committed an act which constitutes domestic violence as defined in s. 741.28.~~

6.8.a. ~~For the following,~~ The department may grant *exemptions* ~~to any person an exemption~~ from disqualification from working with children or the developmentally disabled *as provided in s. 435.07.*:

~~(I) Felonies, other than specified felonies, prohibited under any of the foregoing Florida Statutes cited in subparagraph 6. or under similar statutes of other jurisdictions, committed more than 3 years previously. For the purposes of this sub-sub-subparagraph, "specified felony" means those felonies in the Florida Statutes enumerated in sub-subparagraphs 6.a., b., d., l., m., o., r., s., t., v., x., y., and z., or under similar statutes of another jurisdiction;~~

~~(II) Misdemeanors prohibited under any of the foregoing Florida Statutes cited in this paragraph or under similar statutes of other jurisdictions;~~

~~(III) Offenses which were a felony when committed but are now a misdemeanor;~~

~~(IV) Findings of delinquency as specified in this subsection;~~

~~(V) Judicial determinations of abuse or neglect under chapter 39;~~

~~(VI) Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or have been upheld pursuant to the procedures provided in s. 415.103 or s. 415.504; or~~

~~(VII) Commissions of domestic violence.~~

~~b. In order to grant an exemption to a person, the department shall have clear and convincing evidence to support a reasonable belief that the person is of good character so as to justify an exemption. The person shall bear the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the time period that has elapsed since the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident or such other circumstances that shall by the aforementioned standards indicate that the person will not present a danger to the safety or well-being of children. The decision of the department regarding an exemption may be contested through the hearing procedures set forth in chapter 120.~~

~~c. The disqualification from employment provided in subparagraph 6. shall not be removed from any person found guilty of, regardless of adjudication, or having entered a plea of nolo contendere or guilty to, any felony covered by subparagraph 6. solely by reason of any pardon, executive clemency, or restoration of civil rights.~~

7.~~9.~~ The provision of preservice and inservice training for all foster parents and agency staff.

8.~~10.~~ Satisfactory evidence of financial ability to provide care for the children in compliance with licensing requirements.

9.~~11.~~ The maintenance by the agency of records pertaining to admission, progress, health, and discharge of children served, including written case plans and reports to the department.

10.~~12.~~ The provision for parental involvement to encourage preservation and strengthening of a child's relationship with *the* ~~his~~ family.

11.~~13.~~ The transportation safety of children served.

12.~~14.~~ The provisions for safeguarding the cultural, religious, and ethnic values of a child.

13.~~15.~~ Provisions to safeguard the legal rights of children served.

(b) In promulgating licensing rules pursuant to this section, the department may make distinctions among types of care; numbers of children served; and the physical, mental, emotional, and educational needs of the children to be served by a home or agency.

(c) The department shall not adopt rules which interfere with the free exercise of religion or which regulate religious instruction or teachings in any child-caring or child-placing home or agency; however, nothing herein shall be construed to allow religious instruction or teachings that are inconsistent with the health, safety, or well-being of any child; with public morality; or with the religious freedom of children, parents, or legal guardians who place their children in such homes or agencies.

(5)(a) An application for a license shall be made on forms provided, and in the manner prescribed, by the department. The department shall make a determination as to the good moral character of the applicant based upon screening.

(b) Upon application, the department shall conduct a licensing study based on its licensing rules; shall inspect the home or the agency and the records, including financial records, of the agency; and shall interview the applicant. The department may authorize a licensed child-placing agency to conduct the licensing study of a family foster home to be used exclusively by that agency and to verify to the department that the home meets the licensing requirements established by the department. Upon certification by a licensed child-placing agency that a family foster home meets the licensing requirements, the department shall issue the license.

(c)1. A licensed family foster home, child-placing agency, or residential child-caring agency which applies for renewal of its license shall submit to the department a list of personnel who have worked on a continuous basis at the applicant family foster home or agency since submitting fingerprints to the department, identifying those for whom a written assurance of compliance was provided by the department and identifying those personnel who have recently begun working at the family foster home or agency and are awaiting the results of the required fingerprint check, along with the date of the submission of those fingerprints for processing. The department shall by rule determine the frequency of requests to the Department of Law Enforcement to run state criminal records checks for such personnel except for those personnel awaiting the results of initial fingerprint checks for employment at the applicant family foster home or agency. ~~The department shall review the records of the personnel at the applicant family foster home or agency with respect to the crimes contained in paragraph (4)(a) and shall notify the family foster home or agency of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the person being screened, upon request of the department, to obtain and supply within 30 days the missing disposition information to the department or local licensing agency. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.~~

~~2. The applicant for licensure renewal shall sign an affidavit under penalty of perjury stating that all new personnel have been fingerprinted and that the remaining personnel of the family foster home or agency either have worked at the applicant family foster home or agency on a continuous basis since being initially screened at that family foster home or agency or have a written assurance of compliance from the department.~~

~~(d) As a prerequisite for issuance of the initial license to a family foster home, child placing agency, or residential child caring agency:~~

~~1. The applicant shall submit to the department a complete set of fingerprints, taken by an authorized law enforcement agency or an employee of the department who is trained to take fingerprints, for the operator of the family foster home or agency;~~

~~2. The department shall submit the fingerprints to the Department of Law Enforcement for state processing and for federal processing by the Federal Bureau of Investigation; and~~

~~3. The department shall review the record of the operator with respect to the crimes contained in paragraph (4)(a) and shall notify the applicant of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the operator, upon request of the department, to obtain and supply within 30 days the missing disposition information to the department. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.~~

~~(e)1. Personnel of a family foster home or agency shall, within 5 working days after starting to work at the family foster home or agency, submit to the family foster home or agency for submission, within 48 hours, to the department a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the department who is trained to take fingerprints. Owners and operators of summer day camps or summer 24-hour camps providing care for children shall submit to the department a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the department who is trained to take fingerprints. The department shall submit the fingerprints to the Department of Law Enforcement for state processing and for federal processing by the Federal Bureau of Investigation. The department shall review the person being screened with respect to the crimes contained in paragraph (4)(a) and shall notify the family foster home, agency, summer day camp, or summer 24-hour camp providing care for children of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the person being screened, upon request of the department, to obtain and supply within 30 days the missing disposition information to the department or local licensing agency. Failure to supply missing disposition information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.~~

~~2. Under the penalty of perjury, such personnel shall attest to compliance with the requirements for good moral character as contained in paragraph (4)(a).~~

~~3. New personnel shall be on a probationary status pending a determination of compliance with minimum standards for good moral character. Such new personnel found not to be in compliance shall be automati-~~

~~cally terminated from employment by the family foster home, agency, summer day camp, or summer 24-hour camp providing care for children.~~

~~4. The department, upon request of the family foster home, agency, summer day camp, or summer 24-hour camp, shall provide written assurance of compliance with this section for new personnel who have been fingerprinted and screened for the family foster home, agency, summer day camp, or summer 24-hour camp at which they previously worked. However, if the person has been unemployed for more than 60 days, screening shall be required.~~

~~(f) The costs of processing fingerprints and the state criminal records checks shall be borne by the applicant or the personnel who are being screened.~~

(d)~~(g)~~1. The department may pursue other remedies provided in this section in addition to denial or revocation of a license for failure to comply with the screening requirements. The disciplinary actions determination to be made by the department and the procedure for hearing for applicants and licensees shall be in accordance with chapter 120.

2. When the department has reasonable cause to believe that grounds for denial or termination of employment exist, it shall notify, in writing, the applicant, licensee, or summer or recreation camp, and the personnel affected, stating the specific record which indicates noncompliance with the screening requirements ~~of paragraph (4)(a)~~.

3. Procedures established for hearing under chapter 120 shall be available to the applicant, licensee, summer day camp, or summer 24-hour camp, and affected personnel, in order to present evidence relating either to the accuracy of the basis for exclusion or to the denial of an exemption from disqualification.

4. Refusal on the part of an applicant to dismiss personnel who have been found not to be in compliance with the requirements for good moral character of personnel shall result in automatic denial or revocation of license in addition to any other remedies provided in this section which may be pursued by the department.

(e)~~(h)~~ At the request of the department, the local county health unit shall inspect a home or agency according to the licensing rules promulgated by the department. Inspection reports shall be furnished to the department within 30 days of the request. Such an inspection shall only be required when called for by the licensing agency.

(f)~~(i)~~ All residential child-caring agencies must meet firesafety standards for such agencies adopted by the Division of State Fire Marshal of the Department of Insurance and must be inspected annually. At the request of the department, firesafety inspections shall be conducted by the Division of State Fire Marshal or a local fire department official who has been certified by the division as having completed the training requirements for persons inspecting such agencies. Inspection reports shall be furnished to the department within 30 days of a request.

(g)~~(j)~~ In the licensing process, the licensing staff of the department shall provide consultation on request.

(h)~~(k)~~ Upon determination that the applicant meets the state minimum licensing requirements, the department shall issue a license without charge to a specific person or agency at a specific location. A license may be issued if all the screening materials have been timely submitted; however, a license may not be issued or renewed if any person at the home or agency has failed the *required* screening ~~required by paragraph (4)(a)~~. The license is nontransferable. A copy of the license shall be displayed in a conspicuous place. The license is valid for 1 year from the date of issuance, unless the license is suspended or revoked by the department or is voluntarily surrendered by the licensee. The license is the property of the department.

(i)~~(l)~~ A license issued for the operation of a family foster home or agency, unless sooner suspended, revoked, or voluntarily returned, will expire automatically 1 year from the date of issuance. Ninety days prior to the expiration date, an application for renewal shall be submitted to the department by a licensee who wishes to have *the* ~~his~~ license renewed. A license shall be renewed upon the filing of an application on forms furnished by the department if the applicant has first met the requirements established under this section and the rules promulgated hereunder.

(j)~~(m)~~ The department may not license summer day camps or summer 24-hour camps. However, the department shall have access to the personnel records of such facilities to ensure compliance with the screening requirements.

Section 41. Subsections (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), and (18) of section 415.503, Florida Statutes, 1994 Supplement, are amended to read:

415.503 Definitions of terms used in ss. 415.502-415.514.—As used in ss. 415.502-415.514:

~~(6) "Confirmed report" means a proposed confirmed report that has been determined to be valid after a hearing under s. 415.504(4)(d)3. or a proposed confirmed report for which the alleged perpetrator has failed to request amendment or expunction within the time allotted for such request under s. 415.504(4)(d)2.~~

(6)~~(7)~~ "Department" means the Department of Health and Rehabilitative Services.

(7)~~(8)~~ "False report" means a report of abuse or neglect of a child to the central abuse *hotline* ~~registry and tracking system~~, which report ~~is unfounded and~~ is maliciously made for the purpose of:

(a) Harassing, embarrassing, or harming another person;

(b) Personal financial gain for the reporting person;

(c) Acquiring custody of a child; or

(d) Personal benefit for the reporting person in any other private dispute involving a child.

The term "false report" does not include *a* ~~an unfounded~~ report of abuse, ~~or~~ neglect, *or abandonment* of a child made in good faith to the central abuse *hotline* ~~registry and tracking system~~.

(8)~~(9)~~ "Guardian ad litem" as referred to in any civil or criminal proceeding includes the following: a certified guardian ad litem program, a duly certified volunteer, a staff attorney, contract attorney, or certified pro bono attorney working on behalf of a guardian ad litem or the program, staff members of a program office, or other court-appointed attorney, or a responsible adult who is appointed by the court to represent the best interests of a child in a proceeding as provided for by law, including, but not limited to, chapter 39 and this chapter, who shall be a party to any judicial proceeding as a representative of the child, and who shall serve until discharged by the court. The Guardian Ad Litem Program, because of the special trust or responsibility placed in a guardian ad litem, is authorized to use any private funds collected by the program, or any state funds so designated, to conduct a security background investigation *pursuant to chapter 435, using the level 2 standards set forth in that chapter.* ~~prior to certifying a volunteer to serve. A security background investigation shall include, but not be limited to, employment history checks, checks of references, local criminal records checks through local law enforcement agencies, statewide criminal records checks through the Department of Law Enforcement, federal criminal records checks through the Federal Bureau of Investigation, fingerprint checks through the Federal Bureau of Investigation, and abuse registry clearance.~~ In analyzing and evaluating the information obtained in the security background investigation, the program is to give particular emphasis to past activities involving children, including, but not limited to, child-related criminal offenses ~~or child abuse~~. The program is to have the sole discretion in determining whether to certify a person based on *the* ~~his~~ security background investigation. The information collected pursuant to the security background investigation is confidential and exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. The security background investigation requirement does not apply to a certified guardian ad litem who was certified prior to July 1, 1993, an attorney who is a member in good standing of The Florida Bar, or a licensed professional who has undergone a comparable security background investigation as a condition of licensure within 5 years of applying for certification as a guardian ad litem.

(9)~~(10)~~ "Harm" to a child's health or welfare can occur when the parent or other person responsible for the child's welfare:

(a) Inflicts, or allows to be inflicted, upon the child physical or mental injury. Such injury includes, but is not limited to:

1. Injury sustained as a result of excessive corporal punishment;

2. Physical dependency of a newborn infant upon any drug controlled in Schedule I of s. 893.03, upon any drug controlled in Schedule II of s. 893.03 with the exception of drugs administered in conjunction with a detoxification program as defined in s. 397.021, or upon drugs adminis-

tered in conjunction with medically approved treatment procedures; provided that no parent of such a newborn infant shall be subject to criminal investigation solely on the basis of such infant's drug dependency;

(b) Commits, or allows to be committed, sexual battery, as defined in chapter 794, against the child or commits, or allows to be committed, sexual abuse of a child;

(c) Exploits a child, or allows a child to be exploited, as provided in s. 450.151;

(d) Abandons the child;

(e) Fails to provide the child with supervision or guardianship by specific acts or omissions of a serious nature requiring the intervention of the department or the court;

(f) Fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or although offered financial or other means to do so; however, a parent or other person responsible for the child's welfare legitimately practicing *their* ~~his~~ religious beliefs, who by reason thereof does not provide specified medical treatment for a child, may not be considered abusive or neglectful for that reason alone, but such an exception does not:

1. Eliminate the requirement that such a case be reported to the department;

2. Prevent the department from investigating such a case; or

3. Preclude a court from ordering, when the health of the child requires it, the provision of medical services by a physician, as defined herein, or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization; or

(g) Exposes a child from birth to 5 years of age to drugs. Exposure to drugs is established by a preponderance of evidence that the mother used a controlled substance during pregnancy or that the parent or parents demonstrate continued chronic and severe use of a controlled substance and as a result of such exposure the child exhibits any of the following:

1. Abnormal growth.

2. Abnormal neurological patterns.

3. Abnormal behavior problems.

4. Abnormal cognitive development.

For the purposes of this paragraph, "controlled substance" means any drug controlled in Schedule I or Schedule II of s 893.03.

(10)~~(11)~~ "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a private school, public or private day care center, residential home, institution, facility, or agency or any other person responsible for the child's care.

(11)~~(12)~~ "Mental injury" means an injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in *the* ~~his~~ ability to function within *the* ~~his~~ normal range of performance and behavior, with due regard to his culture.

(12)~~(13)~~ "Other person responsible for a child's welfare" includes the child's legal guardian, legal custodian, or foster parent; an employee of a private school, public or private child day care center, residential home, institution, facility, or agency; or any other person legally responsible for the child's welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child's care. For the purpose of departmental investigative jurisdiction, this definition does not include law enforcement officers or employees of municipal or county detention facilities or the Department of Corrections while acting in an official capacity.

(13)~~(14)~~ "Physical injury" means death, permanent or temporary disfigurement, or impairment of any bodily part.

(14)~~(15)~~ "Physician" means any licensed physician, dentist, podiatrist, or optometrist and includes any intern or resident.

~~(16) "Proposed confirmed report" means a report made pursuant to s. 415.504 when a child protective investigation alleges that abuse or neglect occurred and which identifies the alleged perpetrator.~~

(15)~~(17)~~ "Sexual abuse of a child" means one or more of the following acts:

(a) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(b) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

(c) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that it does not include any act intended for a valid medical purpose.

(d) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator, except that it does not include:

1. Any act which may reasonably be construed to be a normal caretaker responsibility, an interaction with, or affection for a child; or

2. Any act intended for a valid medical purpose.

(e) The intentional masturbation of the perpetrator's genitals in the presence of a child.

(f) The intentional exposure of the perpetrator's genitals in the presence of a child, or any other sexual act intentionally perpetrated in the presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression, degradation, or other similar purpose.

(g) The sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:

1. Solicit for or engage in prostitution; or

2. Engage in a sexual performance, as defined by chapter 827.

~~(18) "Unfounded report" means a report made pursuant to s. 415.504 when an investigation determines that no indication of abuse or neglect exists.~~

Section 42. Section 415.504, Florida Statutes, 1994 Supplement, is amended to read:

415.504 Mandatory reports of child abuse or neglect; mandatory reports of death; central abuse *hotline* ~~registry and tracking system~~.—

(1) Any person, including, but not limited to, any:

(a) Physician, osteopath, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;

(b) Health or mental health professional other than one listed in paragraph (a);

(c) Practitioner who relies solely on spiritual means for healing;

(d) School teacher or other school official or personnel;

(e) Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker; or

(f) Law enforcement officer,

who knows, or has reasonable cause to suspect, that a child is an abused, *abandoned,* or neglected child shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(2)(a) Each report of known or suspected child abuse or neglect pursuant to this section shall be made immediately to the department's central abuse *hotline* ~~registry and tracking system~~ on the single statewide toll-free telephone number, and, if the report is of an instance of known or suspected child abuse by a noncaretaker, the call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse *hotline* ~~registry and tracking system~~.

~~(b) Each report made by a person in an occupation designated in subsection (1) shall be confirmed in writing to the local office of the department designated by the central abuse registry and tracking system within 48 hours of the initial report.~~

(b)~~(c)~~ Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

(c)~~(d)~~ Reports involving known or suspected child-on-child sexual abuse shall be made and received by the department for reporting purposes. The department shall collect as much information as possible on the report before referring the report to an appropriate agency. If the department determines that the child-on-child sexual abuse report alleges caretaker neglect, it shall investigate the report.

(3) Any person required to report or investigate cases of suspected child abuse or neglect who has reasonable cause to suspect that a child died as a result of child abuse or neglect shall report his suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation pursuant to s. 406.11 and shall report his findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner shall not be subject to the confidentiality requirements provided for in s. 415.51.

(4)(a) The department shall establish and maintain a central abuse *hotline* ~~registry and tracking system~~ which shall receive all reports made pursuant to this section in writing or through a single statewide toll-free telephone number which any person may use to report known or suspected child abuse, *abandonment,* or neglect at any hour of the day or night, any day of the week. The central abuse *hotline* ~~registry and tracking system~~ shall be operated in such a manner as to enable the department to:

1. Immediately identify and locate prior reports or cases of child abuse or neglect through utilization of the department's automated tracking system.

2. Monitor and evaluate the effectiveness of the department's program for reporting *and*~~,~~ investigating~~, and classifying~~ suspected abuse or neglect of children through the development and analysis of statistical and other information.

3. Track critical steps in the investigative process to ensure compliance with all requirements for any report of abuse or neglect.

4. Maintain and produce aggregate statistical reports monitoring patterns of both child abuse and child neglect. The department shall collect and analyze child-on-child sexual abuse reports and include the information in aggregate statistical reports.

5. Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse or neglect.

6. Initiate and enter into agreements with other states for the purpose of gathering and sharing information contained in ~~confirmed~~ reports on child maltreatment to further enhance programs for the protection of children.

(b) Upon receiving an oral or written report of known or suspected child abuse or neglect, the central abuse *hotline* ~~registry and tracking system~~ shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse *hotline* ~~registry and tracking system~~ shall immediately notify the department's designated children and families district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse *hotline* ~~registry and tracking system~~ shall notify the department's designated children and families district staff responsible for protective investigations in sufficient time to allow for an investigation, or if the district determines appropriate, a family services response system approach to be commenced within 24 hours. When a district decides to respond to a report of child abuse or neglect with a family services response system approach, the provisions of part III shall apply. If in the course of assessing risk and services, or at any other appropriate time, responsible district staff determines that the risk to the child requires a child protective investigation, then the department shall suspend its family services response system activities and shall proceed with an investigation as delineated in this part. At the time of notification of district staff with respect to the report, the central abuse *hotline* ~~registry and tracking system~~ shall also provide information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(c)~~1.~~ Upon commencing an investigation under this part, the child protective investigator shall inform any subject of the investigation of the following:

1.~~a.~~ The names of the investigators and identifying credentials from the department.

2.~~b.~~ The purpose of the investigation.

(d) The department shall make and keep records of all cases brought before it pursuant to this part and shall preserve the records pertaining to a child and family until 7 years after the last entry was made or until the child is 18 years of age. The department shall then destroy the records, except where the child has been placed under the protective supervision of the department, the court has made a finding of dependency, or a criminal conviction has resulted from the facts associated with the report and there is a likelihood that future services of the department may be required.

(e) Information in the central abuse hotline shall not be used for employment screening. Access to the information shall only be granted as set forth in s. 415.51.

~~c. The possible consequences of the investigation.~~

~~d. How the information provided by the subject may be used.~~

~~e. The description of the risk assessment process and placement of a child.~~

~~f. That the child, the child's parent or guardian, the alleged perpetrator named in a proposed confirmed report, and legal counsel for the aforementioned persons have a right to a copy of any proposed confirmed or confirmed report at the conclusion of the investigation.~~

~~g. That persons who are entitled to receive a copy of the report also have the right to submit a written comment or rebuttal which may be made a part of the report.~~

~~h. That subjects may have additional appeal rights which will be explained in writing when appropriate and necessary at the conclusion of the investigation.~~

~~i. That the court will appoint a guardian ad litem to represent the interest of the child should dependency proceedings result from the investigation.~~

~~j. That if the department removes the child from the home, an order will be entered for the financial support of the child while the child is in the care of the department, and that the parent or legal custodian will be obligated to pay the ordered child support and all other fees established by the department.~~

~~k. The telephone number and name of a department employee available to answer questions.~~

~~2. Upon completion of its investigation, the department shall classify reports as "proposed confirmed" or "unfounded," unless the report is closed without classification, and must give notice of its classification as follows:~~

~~a. In the case of an unfounded report, notice of the classification shall be given to the parent or guardian of the child, the child if appropriate, and the alleged perpetrator.~~

~~b. In the case of a proposed confirmed classification, notice must be given to the parent or guardian of the child, the child if appropriate, the alleged perpetrator, and legal counsel for the aforementioned persons.~~

~~The department shall adopt rules prescribing the content of the notice to be provided and requiring uniformity of content and appearance of each notice of classification issued by the department.~~

~~(d)1. The contents of the notice of classification of reports shall be as follows:~~

~~a. In the case of unfounded reports, notice shall be provided to the persons specified in sub-subparagraph (c)2.a., may be sent by regular mail, and shall advise the recipient that the report will be expunged in 30 days.~~

~~b. In the case of a proposed confirmed report, notice shall be provided to the persons specified in sub-subparagraph (c)2.b. and, in the case of the alleged perpetrator, shall be sent by certified mail with return receipt requested. The notice shall state the facts that are alleged to support the proposed confirmed classification, the nature of the alleged abuse, neglect, or exploitation, and that an alleged perpetrator of a confirmed~~

~~report may be disqualified from working with children, the developmentally disabled, disabled adults, or aged persons. The notice shall further advise the recipient of his right to request a copy of the report, to submit a written statement of explanation or rebuttal with respect to the report, and to request amendment or expunction of the report. The notice shall clearly advise the person that failure to make such a request within 60 days after receipt of the notice, as evidenced by the date on the return receipt, means that the person agrees not to contest the classification of the report, and shall prevent further proceedings in the matter. If the alleged perpetrator of a proposed confirmed report asks for amendment or expunction, the secretary may amend or expunge the record. If the secretary refuses or does not act within 30 days after receiving such a request, the alleged perpetrator of a proposed confirmed report shall have the right to an administrative hearing pursuant to chapter 120 to contest whether the record of the report should be amended or expunged. A request for an administrative hearing must be submitted in writing to the department within 30 days after notification of the secretary's decision to deny the requested amendment or expunction, or, if the secretary fails to act on the request, within 30 days after the expiration of the 30-day time period within which the secretary may act under the provisions of this sub-subparagraph. The alleged perpetrator may, within 1 year after the classification of the report as confirmed, request the department to set aside a confirmed report where it can be shown that the failure to ask for amendment or expunction was due to excusable neglect or fraud. The standard for excusable neglect or fraud shall be as provided in the Florida Rules of Civil Procedure.~~

~~2. The schedule for requesting reports, submitting written comments, and requesting amendment or expunction of reports shall be as follows:~~

~~a. A person entitled to request a copy of an investigative report shall do so within 15 days after receipt of the notice as provided in this paragraph. In the case of an unfounded report, the 15 days shall be counted from the date of mailing of the notice. In the case of a proposed confirmed report, the 15 days shall be counted from the date of delivery of the original notice as evidenced by the return receipt.~~

~~b. A person entitled to submit a written statement of explanation or rebuttal and to request amendment or expunction of the report pursuant to sub-subparagraph 1.b. shall submit the statement or make such a request within 60 days after receipt of the original notice as evidenced by the return receipt. The failure to make a timely request for amendment or expunction of the report means the person agrees not to contest the classification of the report.~~

~~3. At a hearing conducted pursuant to the provisions of chapter 120, the department shall prove by a preponderance of the evidence that the alleged perpetrator committed the abuse, neglect, or exploitation. The department's investigative report shall be considered competent evidence at the hearing, and the technical rules of evidence shall not exclude such report. If the department's classification as proposed confirmed is upheld, the report shall become a confirmed report.~~

~~4. The confidentiality of the abuse or neglect report shall, to the extent possible, be maintained during the administrative hearing process. The administrative hearing shall be closed, the administrative files shall be confidential and exempt from the provisions of s. 119.07(1), and any identifying information in the recommended or final order shall be deleted prior to publishing pursuant to chapter 120. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

~~(e) All identifying information in the central abuse registry and tracking system or other computer systems or records that is related to unfounded reports shall be expunged 30 days after the case is classified as "unfounded." Computer records of a confirmed report shall be retained for 50 years from the date the report is classified. All information, other than identifying information, related to unfounded reports at the time of expunction shall be disposed of in a manner deemed appropriate by the department and pursuant to ss. 119.041 and 257.36(7). Unfounded reports shall only be indexed by the name of the child to detect patterns of abuse or neglect. Persons named in unfounded reports shall not be identified as perpetrators. All information in the central abuse registry and tracking system or other computer systems or records shall be subject to the confidentiality provisions in s. 415.51. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

~~(f) Reports closed without classification shall be indexed only by the name of the child, the child's siblings, or other minor household members, and by the institution or facility, if appropriate, to detect patterns of abuse or neglect. Each report shall be maintained by the department for a period of 7 years after the date the report is closed and is subject to the confidentiality provisions in s. 415.51.~~

~~(g) Nothing in this section is intended to require the expunction or destruction of case records or information required by the Federal Government to be retained for future audit.~~

~~(h) A person who is the alleged perpetrator in a report that the department has classified as unfounded may request the department to retain the report for 1 year for the purpose of detecting a person who knowingly makes a false report.~~

(5) Nothing in this section shall be construed to require a professional who is hired by or enters into a contract with the department for the purpose of treating or counseling *any person* ~~an alleged perpetrator, perpetrator, or child~~, as a result of a report of child abuse or neglect, to again report to the central abuse *hotline* ~~registry and tracking system~~ the abuse or neglect which was the subject of the referral for treatment.

Section 43. Section 415.505, Florida Statutes, 1994 Supplement, is amended to read:

415.505 Child protective investigations; institutional child abuse or neglect investigations.—

(1)(a) The department shall be capable of receiving and investigating reports of known or suspected child abuse, *abandonment,* or neglect 24 hours a day, 7 days a week. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In all other child abuse, *abandonment,* or neglect cases, a child protective investigation shall be commenced within 24 hours after receipt of the report. In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own expense, or accompanied by another person, if the person or the attorney executes an affidavit of understanding with the department and agrees to comply with the confidentiality provisions of s. 415.51. The absence of an attorney or other person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases where the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the program resuming operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to that agency.

~~(b) Upon commencing an investigation, the child protective investigator shall inform any subject of the investigation of the following:~~

~~1. The names of the investigators and identifying credentials from the department.~~

~~2. The purpose of the investigation.~~

~~3. The possible consequences of the investigation.~~

~~4. How the information provided by the subject may be used.~~

~~5. The description of risk assessment process and placement of a child.~~

~~6. That the subject has a right to request that his attorney be present while he is questioned during the course of an investigation of alleged child abuse or neglect and that the subject has a right to submit to the protective investigator at the beginning of the investigation a written statement regarding his knowledge of the facts.~~

~~7. That the child, the child's parent or guardian, the alleged perpetrator named in a proposed confirmed report, and legal counsel for the aforementioned persons have a right to a copy of the report at the conclusion of the investigation.~~

~~8. That persons who are entitled to receive a copy of the report also have the right to submit a written comment or rebuttal which may be made a part of the report.~~

~~9. That subjects may have additional appeal rights which will be explained in writing when appropriate and necessary at the conclusion of the investigation.~~

~~10. That the court will appoint a guardian ad litem to represent the interest of the child should dependency proceedings result from the investigation.~~

~~11. The telephone number and name of a department employee available to answer questions.~~

(b)~~(c)~~ For each report it receives, the department shall perform an onsite child protective investigation to:

1. Determine the composition of the family or household, including the name, address, date of birth, social security number, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents or other persons responsible for the child's welfare; and any other adults in the same household.

2. Determine whether there is indication that any child in the family or household is abused, *abandoned,* or neglected~~, including a determination of harm or threatened harm to each child~~; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, *abandonment,* or neglect, including the name, address, date of birth, social security number, sex, and race of each *such* person ~~to be classified as an alleged perpetrator in a proposed confirmed report. An alleged perpetrator in a proposed confirmed report of abuse or neglect shall cooperate in the provision of the required data for the central abuse registry and tracking system, to the fullest extent possible~~.

3. Determine the immediate and long-term risk to each child through utilization of standardized risk assessment instruments.

4. Determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the child's well-being and development and cause the delivery of those services through the early intervention of the departmental worker responsible for provision and management of identified services in order to preserve and stabilize family life, if possible.

(c)~~(d)~~ If the department is denied reasonable access to a child by the parents or other persons responsible for the child's welfare and the department deems that the best interests of the child so require, it shall seek an appropriate court order or other legal authority to examine and interview the child.

(d)~~(e)~~ If the department determines that a child requires immediate or long-term protection through:

1. Medical or other health care;

2. Homemaker care, day care, protective supervision, or other services to stabilize the home environment, including intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both; or

3. Foster care, shelter care, or other substitute care to remove the child from *the* ~~his~~ parents' custody,

such services shall first be offered for the voluntary acceptance of the parents or other person responsible for the child's welfare, who shall be informed of the right to refuse services as well as the responsibility of the department to protect the child regardless of the acceptance or refusal of services. If the services are refused or the department deems that the child's need for protection so requires, the department shall take the child into protective custody or petition the court as provided in chapter 39.

(e)~~(f)~~ No later than 30 days after receiving the initial report, the local office of the department shall complete its investigation ~~and classify the report as proposed confirmed or unfounded or close the report without classification and notify the parent or guardian of the child; the child, if appropriate; and the alleged perpetrator. These findings must be reported to the department's central abuse registry and tracking system. For proposed confirmed reports, after receiving the final administrative order rendered in a hearing requested pursuant to s. 415.504(4)(d) or after the 30-day period during which an alleged perpetrator of a proposed confirmed report may request such a hearing has expired, the department shall classify the report of abuse as confirmed or unfounded and shall report its findings to the department's central abuse registry and tracking system, and must do so in accordance with the final order if a hearing was held~~.

(f)~~(g)~~ Immediately upon receipt of a report alleging, or immediately upon learning during the course of an investigation, that a child received an observable injury or medically diagnosed internal injury as a result of child abuse or neglect, the department shall:

1. If an allegation has been made, determine if such injury occurred as the result of abuse or neglect.

2. If it was learned during the course of an investigation that such injury did occur as the result of abuse or neglect, orally notify the state attorney and the appropriate law enforcement agency.

In all cases, the department shall make a full written report to the state attorney within 3 days of making the oral report. Upon receiving the oral notification, the law enforcement agency may conduct a criminal investigation, which shall be coordinated, whenever possible, with the child protective investigation of the department. Whenever the law enforcement agency and the department have conducted independent investigations, as soon as practicable after concluding its investigation, the law enforcement agency shall report the findings from its investigation to the state attorney and to the department. Any interested person who has information regarding the observable injury or medically diagnosed internal injury may forward a statement to the state attorney as to whether prosecution is warranted and appropriate.

(g)~~(h)~~ Immediately upon receipt of a report alleging, or immediately upon learning during the course of an investigation, that:

1. A child died as a result of abuse or neglect;

2. A child is a victim of aggravated child abuse as defined in s. 827.03; or

3. A child is a victim of sexual battery or of sexual abuse as defined in s. 415.503,

the department shall orally notify the appropriate state attorney and the appropriate law enforcement agency, which shall immediately conduct a joint criminal investigation, unless independent investigations are more feasible. In all cases, the department shall make a full written report to the state attorney within 3 days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. ~~If the department, as a result of its investigation, determines that there is cause to classify the report of the occurrence of an offense described in this paragraph as a proposed confirmed report rather than as an unfounded report, the department may recommend that criminal charges be filed against the alleged perpetrator.~~ Any interested person who has information regarding an offense described in this paragraph may forward a statement to the state attorney as to whether prosecution is warranted and appropriate.

(h)~~(i)~~ In a child protective investigation or a criminal investigation, when the initial interview with the child is conducted at school, the department or the law enforcement agency may allow, notwithstanding the provisions of s. 39.411(4), a school instructional staff member who is known by the child to be present during the initial interview if:

1. The department or law enforcement agency believes that the school instructional staff member could enhance the success of the interview by his presence; and

2. The child requests or consents to the presence of the school instructional staff member at the interview.

School instructional staff may only be present when authorized by this subsection. Information received during the interview or from any other source regarding the alleged abuse or neglect of the child shall be confidential and exempt from the provisions of s. 119.07(1), except as otherwise provided by court order. A separate record of the investigation of the abuse, *abandonment,* or neglect shall not be maintained by the school or school instructional staff member. Violation of this subsection constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

~~(j) If the department, as a result of its investigation, determines that there is cause to classify the report of abuse or neglect as a proposed confirmed report rather than as an unfounded report, and the alleged perpetrator has a prior confirmed report of abuse or neglect, then the department shall recommend to the state attorney that he consider whether prosecution is justified and appropriate in view of the nature of the abuse or neglect and in view of the fact that it is a subsequent confirmed report of abuse or neglect by the same perpetrator.~~

(i)~~(k)~~ Within 15 days of the completion of *the* ~~his~~ investigation of cases reported to him pursuant to *this section* ~~paragraphs (g), (h), and (i)~~, the state attorney shall report his findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

(2)(a) The department shall conduct a child protective investigation of each report of institutional child abuse or neglect. Upon receipt of a report which alleges that an employee or agent of the department, or any other entity or person covered by s. 415.503(11) or (13), acting in an official capacity, has committed an act of child abuse or neglect, the department shall immediately initiate a child protective investigation and orally notify the appropriate state attorney, ~~and~~ law enforcement agency, *and licensing agency. These agencies* ~~which~~ shall immediately conduct a joint ~~criminal~~ investigation, unless independent investigations are more feasible. *When a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation shall be entitled to full access to the information gathered by the department in the course of the investigation.* In all cases, the department shall make a full written report to the state attorney within 3 days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. ~~If the department, as a result of its investigation, determines that there is cause to classify the report of abuse or neglect as "proposed confirmed" rather than "unfounded," the department may recommend that criminal charges be filed against the alleged perpetrator.~~ Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of *the* ~~his~~ investigation, the state attorney shall report *the* ~~his~~ findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

(b)1. If in the course of the child protective investigation, the department finds that a subject of a report, by continued contact with children in care, constitutes a threatened harm to the physical health, mental health, or welfare of the children, the department may restrict a subject's access to the children pending the outcome of the investigation ~~and the classification of the report~~. The department shall employ the least restrictive means necessary to safeguard the physical health, mental health, and welfare of the children in care. This authority shall apply only to child protective investigations in which there is some evidence that child abuse or neglect has occurred ~~but in which the level of evidence necessary to classify the report as "proposed confirmed" has not yet been established~~. A subject of a report whose access to children in care has been restricted is entitled to petition the circuit court for judicial review. The court shall enter written findings of fact based upon the preponderance of evidence that child abuse or neglect did occur and that the department's restrictive action against a subject of the report was justified in order to safeguard the physical health, mental health, and welfare of the children in care. The restrictive action of the department shall be effective for no more than 90 days without a judicial finding supporting the actions of the department. ~~If the report is classified as "unfounded," or closed without classification, the restrictive action shall be terminated at the time of classification.~~

2. Upon completion of the department's child protective investigation ~~and classification of the report as a proposed confirmed report, and pending such report being uncontested or being upheld pursuant to the procedures provided in s. 415.504~~, the department may make application to the circuit court for *continued restrictive action against any person* ~~the following if~~ necessary to safeguard the physical health, mental health, and welfare of the children in care~~:~~

~~a. Continued restrictive action of a subject of the report under subparagraph 1. who is named as an alleged perpetrator; and~~

~~b. Restrictive action against any other alleged perpetrator named in the proposed confirmed report.~~

(c) Pursuant to the restrictive actions described in paragraph (b), in cases of institutional abuse or neglect in which the removal of the subject of a report ~~or the alleged perpetrator in a proposed confirmed report~~ will result in the closure of the facility, and when requested by the owner of the facility, the department may provide appropriate personnel to assist in maintaining the operation of the facility. The department may provide assistance when it can be demonstrated by the owner that there are no reasonable alternatives to such action. The length of the assistance shall be agreed upon by the owner and the department; however, the assistance shall not be for longer than the course of the restrictive action imposed pursuant to paragraph (b). The owner shall reimburse the department for the assistance of personnel provided.

(d) The department shall notify the human rights advocacy committee in the appropriate district of the department as to every report of institutional child abuse or neglect in the district in which a client of the department is alleged or shown to have been abused or neglected, which notification shall be made within 48 hours of the time the department commences its investigation.

(3) The department shall notify the state attorney and the appropriate law enforcement agency of any other child abuse or neglect case in which a criminal investigation is deemed appropriate by the department.

(4) In cases of institutional abuse in which the multiplicity of the numbers of reports of child abuse or neglect or the severity of the allegations of child abuse or neglect indicates the need for specialized investigation by the department in order to afford greater safeguards for the physical health, mental health, and welfare of the children in care, the department shall provide a team of persons specially trained in the areas of child abuse and neglect investigations, diagnosis, and treatment to assist the local office of the department in expediting its investigation, recommendations for restrictive actions, ~~and classification of the report~~ and to assist in other ways deemed necessary by the department in order to carry out the provisions of this section. The specially trained team shall provide assistance to any investigation efforts of the allegation or allegations by local law enforcement and the Department of Law Enforcement.

Section 44. Section 415.51, Florida Statutes, 1994 Supplement, is amended to read:

415.51 Confidentiality of reports and records in cases of child abuse or neglect.—

(1)(a) In order to protect the rights of the child and his parents or other persons responsible for the child's welfare, all records concerning reports of child abuse or neglect, including reports made to the central abuse *hotline* ~~registry and tracking system~~ and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed except as specifically authorized by ss. 415.502-415.514. Such exemption from s. 119.07(1) applies to information in the possession of those entities granted access as set forth in this section.

(b) Except for information identifying individuals, all records involving the death of a child *determined to be* ~~as~~ a result of abuse, *abandonment,* or neglect~~, and which are classified in an investigative report as confirmed, pursuant to s. 415.504,~~ shall be released to the public within 10 days after completion of the investigation.

These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(2) Access to such records, excluding the name of the reporter which shall be released only as provided in subsection (9), ~~shall depend on the classification of the report, and~~ shall be granted only to the following persons, officials, and agencies~~. Access to unfounded reports shall be limited to the persons and for the purposes stated in paragraphs (a), (b), (c), (g), and (l). Access to proposed confirmed reports shall be limited to the persons and for the purposes stated in paragraphs (a) through (i) and (l). Access to confirmed reports shall be limited to the persons and for the purposes stated in paragraphs (a) through (n). Access to reports closed without classification shall be limited to the persons and for the purposes stated in paragraphs (a), (b), (c), (e), (f), and (l), as follows~~:

(a) Employees or agents of the department responsible for carrying out child or adult protective investigations, ongoing child or adult protective services, or licensure or approval of adoptive homes, foster homes, or other homes used to provide for the care and welfare of children.

(b) *Criminal justice agencies of appropriate jurisdiction* ~~A law enforcement agency investigating a report of known or suspected child abuse or neglect.~~

(c) The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred.

(d) The parent or custodian of any child who is alleged to have been abused, neglected, or abandoned. This access shall be made available no later than 30 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

~~(d) Any child or perpetrator who is the subject of a proposed confirmed or confirmed report or the subject's parent, guardian, custodian, or counsel.~~

(e) Any person identified in the report as having caused the abuse, neglect, or abandonment of a child. This access shall be made available no later than 30 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(f)~~(e)~~ A court~~, by subpoena,~~ upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to inspection in camera, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

(g)~~(f)~~ A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(h)~~(g)~~ Any appropriate official of the department responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse, *abandonment,* or neglect when carrying out his official function; or

2. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated institutional child abuse or neglect.

(i)~~(h)~~ Any person engaged in bona fide research or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher.

(j)~~(i)~~ The Division of Administrative Hearings for purposes of any administrative challenge ~~relating to a proposed confirmed or confirmed report~~.

~~(j) The Department of Business and Professional Regulation when taking disciplinary action against a licensee for actions which resulted in a confirmed report of abuse, neglect, or exploitation which has been upheld following a chapter 120 hearing or a waiver of such proceedings.~~

~~(k) The Office of Professional Practices Services of the Department of Education for the purpose of assisting the Department of Education in determining whether an individual who is named as the perpetrator in a confirmed report of abuse or neglect which has been upheld following a chapter 120 hearing or which became final without a hearing should obtain or hold a Florida teaching certificate.~~

(k)~~(l)~~ Any appropriate official of the human rights advocacy committee investigating a report of known or suspected child abuse, *abandonment,* or neglect, the Auditor General for the purpose of conducting preliminary or compliance reviews pursuant to s. 11.45, or the guardian ad litem for the child as defined in s. 415.503.

(l)~~(m)~~ Employees or agents of an agency of another state that has comparable jurisdiction to the jurisdiction described in paragraph (a).

(m)~~(n)~~ The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed pursuant to s. 447.207. Records may be released only after deletion of all information which specifically identifies persons other than the employee.

These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(3) The department may release to professional persons such information as is necessary for the diagnosis and treatment of the child or the person perpetrating the abuse. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

~~(4) The department shall, upon receipt of the applicable fee, search its central abuse registry and tracking system records pursuant to the requirements of ss. 39.076, 110.1127, 242.335, 393.0655, 394.457, 397.451, 400.506, 400.509, 400.512, 402.305(1), 402.3055, 402.313, 409.175, and 409.176 for the existence of a confirmed report made on the personnel as defined in the foregoing provisions. The department shall report the existence of any confirmed report of abuse and advise the authorized licensing agency, applicant for license, or other authorized agency or person of the results of the search and the date of the report. In the case of judicial determination of abuse, the department shall report the procedure for inspection of court records as set forth in s. 39.411(3). The department may not release any information on unfounded reports. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Prior to a search being conducted, the department or its designee shall notify such person that an inquiry will be made. The department shall notify each person for whom a search is conducted of the results of the search upon request.~~

~~(5) The department shall, with the written consent of a person applying to a licensed child placing agency for the adoption of a child, search its central abuse registry and tracking system for the existence of a confirmed report and advise the licensed child placing agency of any such report found. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

~~(6) Except as provided in subsection (4), the department shall, upon receipt of the applicable fee and with the written consent of a person applying to work with children as a volunteer or as a paid employee for a public or private nonprofit agency, or for an individual family, search its central abuse registry and tracking system for the existence of a confirmed report and shall advise such agency or family of any such report found and the results of the investigation. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

~~(7) With the written consent of a person applying to work with children as a volunteer guardian ad litem or staff member of the guardian ad litem program, the department shall search its central abuse registry and tracking system for the existence of a confirmed report or proposed confirmed report and advise the requesting office of the guardian ad litem program of any report found.~~

~~(8) The department may charge a user fee to an employer or the agency in charge of a volunteer, whichever is applicable, for a search of the central abuse registry and tracking system of up to one-third of the actual cost of the screening process. All fees received by the department under this section shall be deposited in an administrative trust fund of the department and may be expended only for the caretaker screening program.~~

(4)~~(9)~~ The name of any person reporting child abuse, *abandonment,* or neglect shall not be released to any person other than employees of the department responsible for child protective services, the central abuse *hotline* ~~registry and tracking system~~, or the appropriate state attorney without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, *abandonment,* or neglect when deemed necessary by the state attorney or the department to protect a child who is the subject of a report, provided the fact that such person made the report is not disclosed. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Any person who reports a case of child abuse or neglect may, at the time he makes the report, request that the department notify him that a child protective investigation occurred as a result of the report. The department shall mail such a notice to the reporter within 10 days of the completion of the child protective investigation.

(5)~~(10)~~ All records and reports of the child protection team are confidential and exempt from the provisions of ss. 119.07(1) and 455.241, and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child or by order of the court. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(6) A person who knowingly or willfully makes public or discloses to any unauthorized person any confidential information contained in the central abuse hotline is subject to the penalty provisions of s. 415.513. This notice shall be prominently displayed on the first sheet of any documents released pursuant to this section.

Section 45. Chapter 435, Florida Statutes, consisting of sections 435.01, 435.02, 435.03, 435.04, 435.05, 435.06, 435.07, 435.08, 435.09, 435.10, and 435.11, is created to read:

435.01 Applicability of this chapter.—Whenever a background screening for employment or a background security check is required by law for employment, unless otherwise provided by law, the provisions of this chapter shall apply.

435.02 Definitions.—For the purposes of this chapter:

(1) "Employee" means any person required by law to be screened pursuant to the provisions of this chapter.

(2) "Employer" means any person or entity required by law to conduct screening of employees pursuant to this chapter.

(3) "Licensing agency" means any state or county agency which grants licenses or registration permitting the operation of an employer or is itself an employer. When there is no state licensing agency or the county licensing agency chooses not to conduct employment screening, "licensing agency" means the Department of Health and Rehabilitative Services.

435.03 Level 1 screening standards.—

(1) All employees required by law to be screened shall be required to undergo background screening as a condition of employment and continued employment. For the purposes of this subsection, level 1 screenings shall include, but not be limited to, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement, and may include local criminal records checks through local law enforcement agencies.

(2) Any person for whom employment screening is required by statute must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(a) Section 415.111, relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.

(b) Section 782.04, relating to murder.

(c) Section 782.07, relating to manslaughter.

(d) Section 782.071, relating to vehicular homicide.

(e) Section 782.09, relating to killing of an unborn child by injury to the mother.

(f) Section 784.011, relating to assault, if the victim of the offense was a minor.

(g) Section 784.021, relating to aggravated assault.

(h) Section 784.03, relating to battery, if the victim of the offense was a minor.

(i) Section 784.045, relating to aggravated battery.

(j) Section 787.01, relating to kidnapping.

(k) Section 787.02, relating to false imprisonment.

(l) Section 794.011, relating to sexual battery.

(m) Section 794.041, relating to prohibited acts of persons in familial or custodial authority.

(n) Chapter 796, relating to prostitution.

(o) Section 798.02, relating to lewd and lascivious behavior.

(p) Chapter 800, relating to lewdness and indecent exposure.

(q) Section 806.01, relating to arson.

(r) Chapter 812, relating to theft, robbery, and related crimes, if the offense was a felony.

(s) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.

(t) Section 826.04, relating to incest.

(u) Section 827.03, relating to aggravated child abuse.

(v) Section 827.04, relating to child abuse.

(w) Section 827.05, relating to negligent treatment of children.

(x) Section 827.071, relating to sexual performance by a child.

(y) Chapter 847, relating to obscene literature.

(z) Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

(3) Standards must also ensure that the person:

(a) For employees and employers licensed or registered pursuant to chapter 400, does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5), which has been uncontested or upheld under s. 415.103.

(b) Has not committed an act that constitutes domestic violence as defined in s. 741.30.

435.04 Level 2 screening standards.—

(1) All employees in positions designated by law as positions of trust or responsibility shall be required to undergo security background investigations as a condition of employment and continued employment. For the purposes of this subsection, security background investigations shall include, but not be limited to, employment history checks, fingerprinting for all purposes and checks in this subsection, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(a) Section 415.111, relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.

(b) Section 782.04, relating to murder.

(c) Section 782.07, relating to manslaughter.

(d) Section 782.071, relating to vehicular homicide.

(e) Section 782.09, relating to killing of an unborn child by injury to the mother.

(f) Section 784.011, relating to assault, if the victim of the offense was a minor.

(g) Section 784.021, relating to aggravated assault.

(h) Section 784.03, relating to battery, if the victim of the offense was a minor.

(i) Section 784.045, relating to aggravated battery.

(j) Section 787.01, relating to kidnapping.

(k) Section 787.02, relating to false imprisonment.

(l) Section 794.011, relating to sexual battery.

(m) Section 794.041, relating to prohibited acts of persons in familial or custodial authority.

(n) Chapter 796, relating to prostitution.

(o) Section 798.02, relating to lewd and lascivious behavior.

(p) Chapter 800, relating to lewdness and indecent exposure.

(q) Section 806.01, relating to arson.

(r) Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.

(s) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.

(t) Section 826.04, relating to incest.

(u) Section 827.03, relating to aggravated child abuse.

(v) Section 827.04, relating to child abuse.

(w) Section 827.05, relating to negligent treatment of children.

(x) Section 827.071, relating to sexual performance by a child.

(y) Chapter 847, relating to obscene literature.

(z) Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

(3) Standards must also ensure that the person:

(a) For employees or employers licensed or registered pursuant to chapter 400, does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5), which has been uncontested or upheld under s. 415.103.

(b) Has not committed an act that constitutes domestic violence as defined in s. 741.30.

(4) Under penalty of perjury, all employees in such positions of trust or responsibility shall attest to meeting the requirements for qualifying for employment and agreeing to inform the employer immediately if convicted of any of the disqualifying offenses while employed by the employer. Each employer of employees in such positions of trust or responsibilities which is licensed or registered by a state agency shall submit to the licensing agency annually, under penalty of perjury, an affidavit of compliance with the provisions of this section.

435.05 Requirements for covered employees.—Except as otherwise provided by law, the following requirements shall apply to covered employees:

(1)(a) Every person employed in a position for which employment screening is required must, within 5 working days after starting to work, submit to the employer a complete set of information necessary to conduct a screening under this section.

(b) For level 1 screening, the employer must submit the information necessary for screening to the Florida Department of Law Enforcement within 5 working days after receiving it. When required, the employer must at the same time submit sufficient information to the Department of Health and Rehabilitative Services to complete a check of its records relating to the abuse, neglect, and exploitation of vulnerable adults. The Florida Department of Law Enforcement and the Department of Health and Rehabilitative Services will conduct searches of their records and will respond to the employer agency. The employer will inform the employee whether screening has revealed any disqualifying information.

(c) For level 2 screening, the employer or licensing agency must submit the information necessary for screening to the Florida Department of Law Enforcement within 5 working days after receiving it. When required, the employer or licensing agency must also submit sufficient information to the Department of Health and Rehabilitative Services to complete a check of its records. The Florida Department of Law Enforcement will conduct a search of its criminal and juvenile records and will request that the Federal Bureau of Investigation conduct a search of its records for each employee for whom the request is made. The Florida Department of Law Enforcement and the Department of Health and Rehabilitative Services will respond to the employer or licensing agency, and the employer or licensing agency will inform the employee whether screening has revealed disqualifying information.

(d) The person whose background is being checked must supply any missing criminal or other necessary information to the employer within 30 days after the employer makes a request for the information or be subject to automatic disqualification.

(2) Unless otherwise prohibited by state or federal law, new employees may be placed on probationary status pending a determination of compliance with minimum standards set forth in this chapter.

(3) Each employer required to conduct level 2 background screening must sign an affidavit annually, under penalty of perjury, stating that all covered employees have been screened or are newly hired and are awaiting the results of the required screening checks.

435.06 Exclusion from employment.—

(1) When an employer or licensing agency has reasonable cause to believe that grounds exist for the denial or termination of employment of any employee as a result of background screening, it shall notify the employee in writing, stating the specific record which indicates noncompliance with the standards in this section. It shall be the responsibility of the affected employee to contest his or her disqualification or to request exemption from disqualification. The only basis for contesting the disqualification shall be proof of mistaken identity.

(2) The employer must either terminate the employment of any of its personnel found to be in noncompliance with the minimum standards for good moral character contained in this section or place the employee in a position for which background screening is not required unless the employee is granted an exemption from disqualification pursuant to s. 435.07.

(3) Any person who is required to undergo employment screening and who refuses to cooperate in such screening or refuses to submit the information necessary to complete the screening, including fingerprints when required, shall be disqualified for employment in such position or, if employed, shall be dismissed.

435.07 Exemptions from disqualification.—Unless otherwise provided by law, the provisions of this section shall apply to exemptions from disqualification.

(1) The appropriate licensing agency may grant to any employee otherwise disqualified from employment an exemption from disqualification for:

(a) Felonies committed more than 3 years prior to the date of disqualification;

(b) Misdemeanors prohibited under any of the Florida Statutes cited in this chapter or under similar statutes of other jurisdictions;

(c) Offenses that were felonies when committed but are now misdemeanors;

(d) Findings of delinquency;

(e) Commissions of acts of domestic violence as defined in s. 741.30; or

(f) Confirmed reports of abuse, neglect, or exploitation of a vulnerable adult.

For the purposes of this subsection, the term "felonies" means both felonies prohibited under any of the Florida Statutes cited in this chapter or under similar statutes of other jurisdictions.

(2) Persons employed by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of crimes under s. 817.563, s. 893.13, or s. 893.147 may be exempted from disqualification from employment pursuant to this section without the 3-year waiting period.

(3) In order for a licensing department to grant an exemption to any employee, the employee must demonstrate by clear and convincing evidence that the employee should not be disqualified from employment. Employees seeking an exemption have the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the criminal incident for which an exemption is sought, the time period that has elapsed since the incident, the nature of the harm caused to the victim, and the history of the employee since the incident, or any other evidence or circumstances indicating that the employee will not present a danger if continued employment is allowed. The decision of the licensing department regarding an exemption may be contested through the hearing procedures set forth in chapter 120.

(4) Disqualification from employment under subsection (1) may not be removed from, nor may an exemption be granted to, any personnel who is found guilty of, regardless of adjudication, or who has entered a plea of nolo contendere or guilty to, any felony covered by s. 435.03 solely by reason of any pardon, executive clemency, or restoration of civil rights.

(5) Exemptions granted by one licensing agency shall be considered by subsequent licensing agencies, but are not binding on the subsequent licensing agency.

435.08 Payment for processing of fingerprints, state criminal records checks, and abuse hotline checks.—Either the employer or the employee is responsible for paying the costs of screening. Payment shall be submitted to the Florida Department of Law Enforcement with the request for screening. When a search of the central abuse hotline is required, pay-

ment shall be submitted by separate check to the Department of Health and Rehabilitative Services with the request for screening.

435.09 Confidentiality of personnel background check information.—No criminal, juvenile, or abuse hotline information obtained under this section may be used for any purpose other than determining whether persons meet the minimum standards for employment or for an owner or director of a covered service provider. The criminal records and juvenile records obtained by the department or by an employer are exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

435.10 Sharing of personnel information among employers.—Every employer of employees covered by this chapter shall furnish copies of personnel records for employees or former employees to any other employer requesting this information pursuant to this section. Information contained in the records may include, but is not limited to, disciplinary matters and any reason for termination. Any employer releasing such records pursuant to this chapter shall be considered to be acting in good faith and may not be held liable for information contained in such records, absent a showing that the employer maliciously falsified such records.

435.11 Penalties.—

(1) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully, knowingly, or intentionally to:

(a) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment a material fact used in making a determination as to such person's qualifications for a position of special trust.

(b) Use records information for purposes other than screening for employment or release records information to other persons for purposes other than screening for employment. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(2) It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use juvenile records information for any purposes other than specified in this section or to release such information to other persons for purposes other than specified in this section.

Section 46. Paragraph (e) of subsection (1) of section 464.018, Florida Statutes, 1994 Supplement, is amended to read:

464.018 Disciplinary actions.—

(1) The following acts shall be grounds for disciplinary action set forth in this section:

(e) Having ~~been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37); or having~~ a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5) ~~or abuse or neglect as defined in s. 415.503(6)~~ which has been uncontested or upheld under the procedures of s. 415.103 ~~or s. 415.504~~; or having committed an act which constitutes domestic violence as defined in s. 741.28.

Section 47. Subsection (1) of section 447.208, Florida Statutes, is amended to read:

447.208 Procedure with respect to certain appeals under s. 447.207.—

(1) Any person filing an appeal pursuant to subsection (8) or subsection (9) of s. 447.207 shall be entitled to a hearing pursuant to subsections (4) and (5) of s. 447.503 and in accordance with chapter 120; however, the hearing shall be conducted within 30 days of the filing of an appeal with the commission, unless an extension of time is granted by the commission for good cause or unless the basis for the appeal is an allegation of abuse or neglect under s. 415.103 ~~or s. 415.504~~, in which case the hearing by the Public Employees Relations Commission may not be held until the confirmed report of abuse or neglect has been upheld pursuant to the procedures for appeal in *s.* ~~ss.~~ 415.103 ~~and 415.504~~. Discovery may be granted only upon a showing of extraordinary circumstances. A party requesting discovery shall demonstrate a substantial need for the information requested and an inability to obtain relevant information by other means. To the extent that chapter 120 is inconsistent with these provisions, the procedures contained in this section shall govern.

Section 48. The Department of Health and Rehabilitative Services shall no longer classify reports of child abuse. The classifications for any child abuse cases presently identified and classified are no longer valid and are not to be used for employment screening.

Section 49. The Department of Health and Rehabilitative Services and the Department of Law Enforcement shall develop a joint protocol no later than October 1, 1995, for transferring administrative responsibility for the criminal records checks for employment screening and administrative activities pursuant to chapter 435, Florida Statutes, to the Department of Law Enforcement. This protocol shall assure processing of both state and federal criminal history checks and shall, at the state level, assure the expeditious handling of such checks by any involved state agencies. The transfer may be incremental, but must be completed no later than July 1, 1997. The Department of Law Enforcement shall, at a minimum, immediately assume responsibility for receipt of and accounting for all fees for criminal history checks and assist in the retrieval of dispositional information, when absent, for all disqualifying offenses committed by applicants in this state. The Department of Law Enforcement shall also provide technical support to assist the Department of Health and Rehabilitative Services with automated submission of criminal history check requests.

Section 50. Subsection (4) of section 232.02, Florida Statutes, is amended to read:

232.02 Regular school attendance.—Regular attendance is the actual attendance of a pupil during the school day as defined by law and regulations of the state board. Regular attendance within the intent of s. 232.01 may be achieved by attendance in:

(4) A home education program as defined in s. 228.041, ~~and which is in compliance with s. 229.808, provided that no parent or guardian with whom a pupil is residing has been named as a perpetrator in a confirmed report of abuse or neglect of a child pursuant to the provisions of chapter 415 or has been determined by a court of law to have abused or neglected a child and~~ provided that at least one of the following conditions is met:

(a) The parent holds a valid regular Florida certificate to teach the subjects or grades in which instruction is given and complies with any other requirements prescribed by law or rules of the state board; or

(b) The parent does not hold a valid regular Florida certificate to teach and complies with the following requirements:

1. Notifies the superintendent of schools of the county in which the parent resides of his intent to establish and maintain a home education program. The notice shall be in writing, signed by the parent, and shall include the names, addresses, and birthdates of all children who shall be enrolled as students in the home education program. The notice shall be filed in the superintendent's office within 30 days of the establishment of the home education program. A written notice of termination of the home education program shall be filed in the superintendent's office within 30 days of said termination.

2. Maintains a portfolio of records and materials. The portfolio shall consist of a log, made contemporaneously with the instruction, which designates by title the reading materials used and samples of any writings, worksheets, workbooks, and creative materials used or developed by the student. The portfolio shall be preserved by the parent for 2 years and shall be made available for inspection by the superintendent, or his agent, upon 15 days' written notice.

3. Provides for an annual educational evaluation in which is documented the pupil's demonstration of educational progress at a level commensurate with his ability. A copy of the evaluation shall be filed annually with the district school board office in the county in which the pupil resides. The annual educational evaluation shall consist of one of the following:

a. A teacher selected by the parent shall evaluate the pupil's educational progress upon review of the portfolio and discussion with the pupil. Such teacher shall hold a valid regular Florida certificate to teach academic subjects at the elementary or secondary level. The teacher shall submit a written evaluation to the school superintendent;

b. The pupil shall take any nationally normed student achievement test used by the district and administered by a certified teacher. Such test results shall be reported to the school superintendent;

c. The pupil shall take a state student assessment test. Such test results shall be reported to the school superintendent;

d. The pupil shall be evaluated by an individual holding a valid, active license pursuant to the provisions of s. 490.003(3) or s. 490.003(5). Such results shall be reported to the school superintendent; or

e. The pupil shall be evaluated with any other valid measurement tool as mutually agreed upon by the school superintendent of the district in which the pupil resides and the pupil's parent or guardian. Such results shall be reported to the superintendent.

The school superintendent shall review and accept the results of the annual educational evaluation of the pupil in a home education program. If the pupil does not demonstrate educational progress at a level commensurate with his ability, the superintendent shall notify the parent, in writing, that such progress has not been achieved. The parent shall have 1 year from the date of receipt of the written notification to provide remedial instruction to the pupil. At the end of the 1-year probationary period, the pupil shall be reevaluated as specified in this subparagraph. Continuation in a home education program shall be contingent upon the pupil demonstrating educational progress commensurate with his ability at the end of the probationary period.

Section 51. Subsection (43) of section 393.063, Florida Statutes, 1994 Supplement, is amended to read:

393.063 Definitions.—For the purposes of this chapter:

(43) "Screening," for purposes of employment, contracting, or certification, means the act of assessing the background of direct service providers and independent support coordinators, who are not related to clients for whom they provide services and includes, but is not limited to, employment history checks, ~~checks of references,~~ local criminal records checks through local law enforcement agencies, fingerprinting for all purposes and checks in this subsection, statewide criminal records checks through the Department of Law Enforcement, *and* federal criminal records checks through the Federal Bureau of Investigation~~, and abuse registry clearance~~; except that screening for volunteers included under the definition of personnel includes only local criminal records checks through local law enforcement agencies for current residence and residence immediately prior to employment as a volunteer, if different; statewide criminal records correspondence checks through the Department of Law Enforcement~~, and abuse registry clearance. Employment history checks and checks of references shall be assessed by the director for each employee and by the department for all directors~~.

Section 52. Subsection (21) of section 394.455, Florida Statutes, is amended to read:

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

(21) "Screening" means the act of assessing the background of mental health personnel and includes, but is not limited to, employment history checks, ~~checks of references,~~ local criminal records checks through local law enforcement agencies, fingerprinting for all purposes and checks in this subsection, statewide criminal records checks through the Department of Law Enforcement, *and* federal criminal records checks through the Federal Bureau of Investigation~~, and abuse registry clearance~~; except that screening for volunteers included under the definition of personnel includes only local criminal records checks through local law enforcement agencies for current residence and residence immediately prior to employment as a volunteer, if different, *and* statewide criminal records correspondence checks through the Department of Law Enforcement~~, and abuse registry clearance. Employment history checks and checks of references shall be assessed by the director for each employee and by the department for all directors~~.

Section 53. Subsection (4) of section 397.311, Florida Statutes, is amended to read:

397.311 Definitions.—As used in this chapter, except part VIII:

(4) "Background check" means reviewing the background of service provider personnel who have direct contact with unmarried clients under the age of 18 years or with clients who are developmentally disabled in accordance with the provisions of s. 397.451, and includes, but is not limited to, local criminal records checks through local law enforcement agencies, fingerprinting, statewide criminal records checks through the Department of Law Enforcement, federal criminal records checks through the Federal Bureau of Investigation, *and* employment history checks~~, reference checks, and abuse registry clearance~~.

Section 54. Subsection (10) of section 400.462, Florida Statutes, is amended to read:

400.462 Definitions.—As used in this part, the term:

(10) "Screening" means the assessment of the background of home health agency personnel, nurse registry personnel, and persons registered under s. 400.509 and includes employment history checks, ~~checks of references,~~ records checks of the department's central abuse *hotline* ~~registry and tracking system~~ under chapter 415 *relating to vulnerable adults*, and statewide criminal records correspondence checks through the Department of Law Enforcement.

Section 55. Subsection (10) of section 402.302, Florida Statutes, 1994 Supplement, is amended to read:

402.302 Definitions.—As used in ss. 402.301-402.319:

(10) "Screening" means the act of assessing the background of child care personnel and includes, but is not limited to, employment history checks, ~~checks of references,~~ local criminal records checks through local law enforcement agencies, fingerprinting for all purposes and checks in this subsection, statewide criminal records checks through the Department of Law Enforcement, *and* federal criminal records checks through the Federal Bureau of Investigation~~, and abuse registry clearance~~; except that screening for volunteers included under the definition of personnel includes only local criminal records checks through local law enforcement agencies for current residence and residence immediately prior to employment as a volunteer, if different, *and* statewide criminal records correspondence checks through the Department of Law Enforcement~~, and abuse registry clearance. Employment history checks and checks of references shall be assessed by the owner or operator for each employee and by the department for all owners or operators~~.

Section 56. Section 402.3055, Florida Statutes, is amended to read:

402.3055 Submission and processing of fingerprints; criminal checks.—

~~(1) REQUIREMENTS FOR RENEWAL OF LICENSE.—~~

~~(a) A licensed child care facility which applies for renewal of its license shall submit to the department, or to the local licensing agency for submission to the department, a list of child care personnel who have worked on a continuous basis at the applicant facility since submitting fingerprints to the department or local licensing agency, identifying those child personnel for whom a written assurance of compliance was provided by the department and identifying those child care personnel who have recently begun working at the facility and are awaiting the results of the required fingerprint check along with the date of the submission of those fingerprints for processing. The department shall by rule determine the frequency of requesting the Department of Law Enforcement to run state criminal records checks for such child care personnel except for those child care personnel awaiting the results of initial fingerprint checks for employment at the applicant facility. The department or local licensing agency shall review the records of the child care personnel at the applicant facility with respect to the crimes contained in s. 402.305(1)(a) and shall notify the facility of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the person being screened, upon request of the department or local licensing agency, to obtain and supply within 30 days the missing disposition information to the department or local licensing agency. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.~~

~~(b) The applicant for licensure renewal shall sign an affidavit under penalty of perjury stating that all new child care personnel either have been fingerprinted and that the facility's remaining child care personnel have worked at the applicant facility on a continuous basis since being initially screened at that facility or have a written assurance of compliance from the department.~~

~~(2) REQUIREMENTS FOR ISSUANCE OF INITIAL LICENSE.—As a prerequisite for issuance of the initial license to a child care facility:~~

~~(a) The applicant shall submit to the department, or to the local licensing agency for submission to the department, a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the department or local licensing agency who is trained to take fingerprints, for the operator of the child care facility;~~

~~(b) The department shall submit the fingerprints to the Department of Law Enforcement for state processing and for federal processing by the Federal Bureau of Investigation; and~~

~~(c) The department or local licensing agency shall review the record of the operator with respect to the crimes contained in s. 402.305(1) and shall notify the applicant of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the operator, upon request of the department or local licensing agency, to obtain and supply within 30 days the missing disposition information to the department or local licensing agency. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.~~

(1)~~(3)~~ REQUIREMENTS FOR CHILD CARE PERSONNEL.—

~~(a) Child care personnel of a facility shall, within 5 working days after starting to work at the facility, submit to the facility for submission, within 48 hours, to the department, or to the local licensing agency for submission to the department, a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the department or local licensing agency who is trained to take fingerprints. Child care personnel of other child care programs shall submit to the department, or to the local licensing agency for submission to the department, a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the department or local licensing agency who is trained to take fingerprints. The department shall submit the fingerprints to the Department of Law Enforcement for state processing and for federal processing by the Federal Bureau of Investigation. The department or local licensing agency shall review the record of the person being screened with respect to the crimes contained in s. 402.305(1) and shall notify the facility or other child care program of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the person being screened, upon request of the department or local licensing agency, to obtain and supply within 30 days the missing disposition information to the department or local licensing agency. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.~~

(a)~~(b)~~ The department or local licensing agency shall require that the application for a child care license contain a question that specifically asks the applicant, owner, or operator if he has ever had a license denied, revoked, or suspended in any state or jurisdiction or has been the subject of a disciplinary action or been fined while employed in a child care facility. The applicant, owner, or operator shall attest to the accuracy of the information requested under penalty of perjury. If the applicant, owner, or operator admits that he has been a party in such action, the department or local licensing agency shall review the nature of the suspension, revocation, disciplinary action, or fine before granting the applicant a license to operate a child care facility. If the department or local licensing agency determines as the result of such review that it is not in the best interest of the state or local jurisdiction for the applicant to be licensed, a license shall not be granted.

(b)~~(c)~~ The child care facility employer shall require that the application for a child care personnel position contain a question that specifically asks the applicant if he has ever worked in a facility that has had a license denied, revoked, or suspended in any state or jurisdiction or has been the subject of a disciplinary action or been fined while employed in a child care facility. The applicant shall attest to the accuracy of the information requested under penalty of perjury. If the applicant admits that he has been a party in such action, the employer shall review the nature of the denial, suspension, revocation, disciplinary action, or fine before the applicant is hired.

~~(d) Under the penalty of perjury, such personnel shall attest to compliance with the minimum standards for good moral character as contained in s. 402.305(1)(a).~~

~~(e) New child care personnel shall be on probationary status pending a determination of compliance with minimum standards for good moral character. Such new child care personnel found to be in noncompliance shall be automatically terminated from employment by the facility or other child care program.~~

~~(f) The department or local licensing agency, upon request of a child care facility or other child care program, shall provide written assurance of compliance with this section for new child care personnel who have been fingerprinted and screened for the facility or other child care program at which they previously worked. However, if the person has been unemployed for more than 60 days, screening shall be required.~~

~~(4) PAYMENT FOR PROCESSING OF FINGERPRINTS AND STATE CRIMINAL RECORDS CHECKS.— The costs of processing fingerprints and the state criminal records checks shall be borne by the applicant or the child care personnel or other child care workers who are being screened.~~

~~(5) CONFIDENTIALITY OF PERSONNEL SCREENING INFORMATION.— The department or a child care facility may not use the criminal records, juvenile records, or abuse registry information of a person obtained under this section for any purpose other than determining if that person meets the minimum standards for good moral character for child care personnel. The criminal records, juvenile records, or abuse registry information obtained by the department or a child care facility for determining the moral character of child care personnel are exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

(2)~~(6)~~ EXCLUSION FROM OWNING, OPERATING, OR BEING EMPLOYED BY A CHILD CARE FACILITY OR OTHER CHILD CARE PROGRAM; HEARINGS PROVIDED.—

(a) The department or local licensing agency shall deny, suspend, or revoke a license or pursue other remedies provided in s. 402.310, s. 402.312, or s. 402.319 in addition to or in lieu of denial, suspension, or revocation for failure to comply with this section. The disciplinary actions determination to be made by the department or the local licensing agency and the procedure for hearing for applicants and licensees shall be in accordance with s. 402.310.

(b) When the department or the local licensing agency has reasonable cause to believe that grounds for denial or termination of employment exist, it shall notify, in writing, the applicant, licensee, or other child care program and the child care personnel affected, stating the specific record which indicates noncompliance with the standards in s. 402.305(1).

(c) When the department is the agency initiating the statement regarding noncompliance, the procedures established for hearing under chapter 120 shall be available to the applicant, licensee, or other child care program and to the affected child care personnel, in order to present evidence relating either to the accuracy of the basis of exclusion or to the denial of an exemption from disqualification.

(d) When a local licensing agency is the agency initiating the statement regarding noncompliance of an employee with the standards contained in s 402.305(1), the employee, applicant, licensee, or other child care program has 15 days from the time of written notification of the agency's finding to make a written request for a hearing. If a request for a hearing is not received in that time, the permanent employee, applicant, licensee, or other child care program is presumed to accept the finding.

(e) If a request for a hearing is made to the local licensing agency, a hearing shall be held within 30 days and shall be conducted by an individual designated by the county commission.

(f) An employee, applicant, licensee, or other child care program shall have the right to appeal a finding of the local licensing agency to a representative of the department. Any required hearing shall be held in the county in which the permanent employee is employed. The hearing shall be conducted in accordance with the provisions of chapter 120.

(g) Refusal on the part of an applicant or licensee to dismiss child care personnel who have been found to be in noncompliance with personnel standards of s. 402.305(1) shall result in automatic denial or revocation of the license in addition to any other remedies pursued by the department or local licensing agency.

Section 57. Subsection (7) of section 402.313, Florida Statutes, is amended to read:

402.313 Family day care homes.—

(7) On an annual basis, the department shall prepare an evaluation of the registration and licensure system for family day care homes which shall, at a minimum, address the following:

(a) The number of family day care homes registered and licensed and the dates of such registration and licensure.

(b) The number of children being served in both registered and licensed family day care homes and any available slots in such homes.

(c) The number of complaints received concerning family day care, the nature of the complaints, and the resolution of such complaints. ~~This element shall include information concerning child abuse and neglect reports as well as other complaints received.~~

(d) The training activities utilized by child care personnel in family day care homes for meeting the state or local training requirements.

The evaluation shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than March 1 of each year. The evaluation shall be utilized by the department in any administrative modifications or adjustments to be made in the registration of family day care homes or in any legislative requests for modifications to the system of registration or to other requirements for family day care homes.

Section 58. Section 402.319, Florida Statutes, is amended to read:

402.319 Penalties.—

~~(1)~~ It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully, knowingly, or intentionally to:

(1)~~(a)~~ Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment or licensure regulated under ss. 402.301-402.318 a material fact used in making a determination as to such person's qualifications to be an owner, operator, employee, or volunteer in a child care facility or other child care program.

(2)~~(b)~~ Operate or attempt to operate a child care facility without having procured a license as required by this act.

(3)~~(c)~~ Operate or attempt to operate a child care facility under a license that is suspended, revoked, or terminated.

(4)~~(d)~~ Represent, by act or omission, a child care facility to be duly licensed pursuant to this act without being so licensed.

(5)~~(e)~~ Operate or attempt to operate a family day care home without a license or without registering with the department, whichever is applicable.

~~(f) Use information from the criminal records or central abuse registry obtained under s. 402.305 or s. 402.3055, for any purpose other than screening that person for employment as specified in those sections or release such information to any other person for any purpose other than screening for employment as specified in those sections.~~

~~(2) It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use information from the juvenile records of any person obtained under s. 402.305, s. 402.3055, or s. 402.313 for any purpose other than screening for employment as specified in those sections or to release information from such records to any other person for any purpose other than screening for employment as specified in those sections.~~

Section 59. Paragraph (a) of subsection (8) of section 216.136, Florida Statutes, 1994 Supplement, is amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(8) CHILD WELFARE SYSTEM ESTIMATING CONFERENCE.—

(a) Duties.—The Child Welfare System Estimating Conference shall develop the following information relating to the child welfare system:

1. Estimates and projections of the number of initial and additional reports of child abuse or neglect made to the central abuse registry and tracking system maintained by the Department of Health and Rehabilitative Services as established in s. 415.504(4)(a).

~~2. Estimates and projections of the number of initial and additional reports of child abuse or neglect made to the central abuse registry and tracking system which are classified by the Department of Health and Rehabilitative Services as confirmed.~~

2.~~3.~~ Estimates and projections of the number of children who are alleged to be victims of child abuse or neglect and are in need of placement in an emergency shelter.

In addition, the conference shall develop other official information relating to the child welfare system of the state which the conference determines is needed for the state planning and budgeting system. The Department of Health and Rehabilitative Services shall provide information on the child welfare system requested by the Child Welfare System Estimating Conference, or individual conference principals, in a timely manner.

Section 60. Effective July 1, 1995, paragraph (a) of subsection (2) of section 39.41, Florida Statutes, 1994 Supplement, is amended to read:

39.41 Powers of disposition.—

(2)(a) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power, by order, to:

1. Require the parent, guardian, or custodian, and the child when appropriate to participate in treatment and services identified as necessary.

2. Require the parent, guardian, or custodian, and the child when appropriate to participate in mediation if the parent, guardian, or custodian refused to participate in mediation under s. 39.4033.

3. Place the child under the protective supervision of an authorized agent of the department, either in the child's own home or, the prospective custodian being willing, in the home of a relative of the child or of an adult nonrelative approved by the court, or in some other suitable place under such reasonable conditions as the court may direct. Whenever the child is placed under protective supervision pursuant to this section, the department shall prepare a case plan and shall file it with the court. Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. *Protective supervision may be terminated by the court whenever the court determines that the child's placement, whether with a parent, another relative, or a nonrelative, is stable and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the Department of Health and Rehabilitative Services shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified.*

4. Place the child in the temporary legal custody of an adult relative or an adult nonrelative approved by the court who is willing to care for the child.

5.a. When the parents have failed to comply with a case plan and the court determines at a judicial review hearing held pursuant to s. 39.453, or at a hearing held pursuant to subparagraph (1)(a)7. of this section, that neither reunification, termination of parental rights, nor adoption is in the best interest of the child, the court may place the child in the long-term custody of an adult relative or adult nonrelative approved by the court willing to care for the child, if the following conditions are met:

(I) A case plan describing the responsibilities of the relative or nonrelative, the department, and any other party must have been submitted to the court.

(II) The case plan for the child does not include reunification with the parents or adoption by the relative.

(III) The child and the relative or nonrelative custodian are determined not to need protective supervision or preventive services to ensure the stability of the long-term custodial relationship, or the department assures the court that protective supervision or preventive services will be provided in order to ensure the stability of the long-term custodial relationship.

(IV) Each party to the proceeding agrees that a long-term custodial relationship does not preclude the possibility of the child returning to the custody of the parent at a later date.

(V) The court has considered the reasonable preference of the child if the court has found the child to be of sufficient intelligence, understanding, and experience to express a preference.

b. The court shall retain jurisdiction over the case, and the child shall remain in the long-term custody of the relative or nonrelative approved by the court until the order creating the long-term custodial relationship is modified by the court. *The court may relieve the department of the*

responsibility for supervising the placement of the child whenever the court determines that the placement is stable and that such supervision is no longer needed. Notwithstanding the retention of jurisdiction, the placement shall be considered a permanency option for the child when the court relieves the department of the responsibility for supervising the placement. The order terminating supervision by the Department of Health and Rehabilitative Services shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. The court may modify the order terminating supervision of the long-term relative or nonrelative placement if it finds that a party to the proceeding has shown a material change in circumstances which causes the long-term relative or nonrelative placement to be no longer in the best interest of the child. ~~At least annually, a representative of the department shall visit jointly with the child and long-term relative or nonrelative custodian and file a report with the court. The court may modify a long-term placement custody order if it finds that a party to the proceeding has shown a material change in circumstances which causes the continued long-term custodial relationship no longer to be in the best interest of the child.~~

6.*a.* Approve placement of the child in long-term foster care, when the following conditions are met:

(I)~~a.~~ The foster child is 16 years of age or older, unless the court determines that the history or condition of a younger child makes long-term foster care the most appropriate placement.

(II)~~b.~~ The child demonstrates no desire to be placed in an independent living arrangement pursuant to this subsection.

(III)~~c.~~ The department's social services study pursuant to s. 39.453(6)(a) recommends long-term foster care.

b. Long-term foster care under the above conditions shall not be considered a permanency option.

c. The court may approve placement of the child in long-term foster care, as a permanency option, when all of the following conditions are met:

(I) The child is 14 years of age or older,

(II) The child is living in a licensed home and the foster parents desire to provide care for the child on a permanent basis and the foster parents and the child do not desire adoption,

(III) The foster family has made a commitment to provide for the child until he reaches the age of majority and to prepare the child for adulthood and independence, and

(IV) The child has remained in the home for a continuous period of no less than 12 months.

(V) The foster parents and the child view one another as family and consider living together as the best place for the child to be on a permanent basis.

(VI) The department's social services study recommends such placement and finds the child's well-being has been promoted through living with the foster parents.

d. Notwithstanding the retention of jurisdication and supervision by the department, long-term foster care placements made pursuant to sub-subparagraph (2)(a)6.c. of this section shall be considered a permanency option for the child. For purposes of this subsection, supervision by the department shall be defined as a minimum of semiannual visits. The order placing the child in long-term foster care as a permanency option shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. The court may modify the permanency option of long-term foster care if it finds that a party to the proceeding has shown a material change in circumstances which causes the placement to be no longer in the best interests of the child.

7. Commit the child to a licensed child-caring agency willing to receive the child. Continued commitment to the licensed child-caring agency, as well as all other proceedings under this section pertaining to the child, are also governed by part V of this chapter.

8. Commit the child to the temporary legal custody of the department. Such commitment invests in the department all rights and responsibilities of a legal custodian. The department shall not return any child to the physical care and custody of the person from whom the child was removed, except for short visitation periods, without the approval of the court. The term of such commitment continues until terminated by the court or until the child reaches the age of 18. After the child is committed to the temporary custody of the department, all further proceedings under this section are also governed by part V of this chapter.

9.a. Change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing subsequent to the initial detention hearing, without the necessity of another adjudicatory hearing. A child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a nonrelative, or in some other place may be brought before the court by the agent of the department who is supervising the placement or by any other interested person, upon the filing of a petition alleging a need for a change in the conditions of protective supervision or the placement. If the parents or other custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered.

b. In cases where the issue before the court is whether a child should be reunited with a parent, the court shall determine whether the parent has substantially complied with the terms of the case plan to the extent that the well-being and safety of the child is not endangered by the return of the child to the home.

10. Approve placement of the child in an independent living arrangement for any foster child 16 years of age or older, if it can be clearly established that this type of alternate care arrangement is the most appropriate plan and that the safety and welfare of the child will not be jeopardized by such an arrangement. While in independent living situations, children whose legal custody has been awarded to the department or a licensed child-caring or child-placing agency, or who have been voluntarily placed with such an agency by a parent, guardian, relative, or adult nonrelative approved by the court, continue to be subject to the court review provisions of s. 39.453.

Section 61. Effective July 1, 1995, paragraph (a) of subsection (1) of section 402.3015, Florida Statutes, is amended to read:

402.3015 Subsidized child care program; purpose; fee; transitional child care.—

(1) The purpose of the subsidized child care program is to provide quality child care to enhance the development, including language, cognitive, motor, social, and self-help skills, of at-risk children. For the purpose of this section, the term "at-risk children" means any of the following:

(a) Children identified by the department through the Florida Protective Services System as being at risk of abuse, neglect, or exploitation *and children who have previously been so identified, as long as they remain in day care without an absence of 30 days' duration.*

Section 62. Except as otherwise provided herein, this act shall take effect October 1, 1995, and shall apply to offenses committed on or after that date.

And the title is amended as follows:

On page 1, line 10, strike all of said line and insert: defenses; amending s. 39.01, F.S.; revising definitions; amending s. 39.40, F.S., relating to procedures and jurisdiction; requiring appointment of counsel for parents unable to afford counsel who are threatened with specified criminal charges permanent loss of custody of their children; expressing legislative intent for placement of children removed from their homes in a safe environment and with minimum disruption to education; amending s. 39.401, F.S.; revising guidelines for taking allegedly dependent child into custody; amending s. 39.402, F.S.; modifying provisions that allow a child to be placed in a shelter prior to a court hearing; requiring reasonable grounds for removal; requiring that a child's parent or legal custodian be actually notified before, and given opportunity to present evidence at, the emergency shelter hearing; authorizing the court to issue a show-cause order or impose sanctions or dismiss a case if the department fails to prepare to present its case within a specified time; amending s. 39.4031, F.S.; revising case plan requirements; amending s. 39.4032, F.S.; revising guidelines for multidisciplinary case staffing; amending s. 39.4055, F.S.;

revising purpose of injunction pending disposition of petition for detention or dependency; amending s. 39.407, F.S.; requiring evidence in support of order for treatment of child in physical custody of the Department of Health and Rehabilitative Services; amending s. 39.408, F.S., relating to adjudicatory hearings; requiring corroborative evidence of anonymous reports under specified circumstances; providing for obtaining of confidential information by parents; amending s. 39.45, F.S.; revising legislative intent with respect to taking of child in foster care; amending s. 39.451, F.S.; revising guidelines relating to case plans for children in foster care; amending s. 39.452, F.S., relating to foster care case planning when parents do not participate; providing for 15-day instead of 30-day extensions for preparation of case plans; providing for parents to be provided with copy of case plan 72 hours prior to filing; amending s. 39.4612, F.S., relating to factors for court determination of manifest best interests of the child; amending s. 39.47, F.S.; providing legislative finding and intent with respect to finalizing of adoptive placement; amending s. 415.501, F.S.; revising guidelines for state plan for the prevention of abuse and neglect of children and for district plans; providing for reports; amending s. 415.5016, F.S.; revising legislative intent with respect to family services response system; amending s. 415.5017, F.S.; revising procedures of family services response system; amending s. 415.502, F.S., relating to legislative intent for comprehensive protective services for abused and neglected children; providing for each child to have social security number; amending s. 415.504, F.S., relating to mandatory reports of child abuse or neglect; providing for confidential naming in records of reporters in certain occupational categories; providing for confidential electronic recording of call numbers of abuse reporters by July 1, 1996; repealing s. 415.505(1)(b), F.S., relating to the manner in which reports of abuse or neglect may be investigated; removing provision requiring specified information to be given to subject of investigation; amending s. 415.5055, F.S.; revising duties of the department with respect to child protection teams and services; amending s. 415.51, F.S.; revising provisions relating to confidentiality of reports and records in child abuse or neglect cases; requiring the Professional Development Centers of the Department of Health and Rehabilitative Services to assess the training curriculum of department staff operating the abuse hotline and those responsible for child protective services; requiring a report; creating the Task Force on Family Safety to examine and recommend changes to the state's child-welfare system; providing membership of the task force; providing for reimbursement of expenses for members of the task force; requiring the task force to report its findings and recommendations; requiring the Criminal Justice Standards and Training Commission and the Department of Health and Rehabilitative Services to assess the training curriculum of personnel who work with families and children affected by family violence and abuse; requiring reports; requiring the Department of Health and Rehabilitative Services and the Department of Law Enforcement to establish model programs to identify alternative methods of receiving, disseminating, and investigating reports of child abuse, neglect, and exploitation; providing that the Department of Health and Rehabilitative Services and law enforcement agencies within a county that implements a model program may reassign functions and duties of the participating agencies; providing criteria for the department in selecting counties to implement a model program; providing requirements for the sheriff of a county that implements a model program; requiring the Department of Law Enforcement and the Department of Health and Rehabilitative Services to assess the model programs and make certain reports and recommendations; amending s. 39.001, F.S.; revising guidelines for employment screening required by the Department of Juvenile Justice and the Department of Health and Rehabilitative Services for personnel in child or youth programs; amending s. 39.076, F.S.; revising provisions relating to such screening; amending s. 39.411, F.S.; providing for use of court records to provide disqualification; amending s. 110.1127, F.S.; providing for employment screening of persons in positions of special trust or responsibility; providing for exemptions from disqualification; amending s. 242.335, F.S.; providing for personnel screening at the Florida School for the Deaf and the Blind; amending s. 393.0655, F.S.; providing for screening of direct service providers; amending s. 397.451, F.S.; providing for background checks of service provider personnel who have direct contact with unmarried minor clients or clients who are developmentally disabled; removing provisions relating to confidentiality of personnel background check information; amending s. 394.457, F.S.; providing for screening of mental health personnel; amending s. 400.211, F.S., relating to certification of persons employed as nursing assistants in adult congregate living facilities; providing for denial, suspension, or revocation by the Department of Business and Professional Regulation of such certification based on finding of guilt of specified offense, or confirmed report of abuse or neglect of a vulnerable adult; amending s. 400.414, F.S., relating to denial, revocation, or suspension of adult congregate living facilities licensees; removing provision relating to disciplinary action against a licensee based on confirmed report of child abuse or neglect by facility or employee; revising provisions relating to exemptions from disqualification; amending s. 400.512, F.S.; providing for screening of home health agency personnel, nurse registry personnel, and sitters, companions, and homemakers registered with the Agency for Health Care Administration; amending s. 402.305, F.S.; providing for screening of child care facilities personnel; amending s. 409.175, F.S.; redefining "screening" and providing for screening of family foster homes, residential child-care agencies, child-placing agencies, summer day camps, and summer 24-hour camps; amending s. 415.503, F.S.; revising definitions with respect to part IV of chapter 415, F.S., relating to protective services for abused and neglected children; amending s. 415.504, F.S.; providing for mandatory reports of child abuse, abandonment, or neglect or reports of child deaths; substituting references to the central abuse registry and tracking system with references to the central abuse hotline, providing for preservation of specified records pertaining to a child; prohibiting use of central abuse hotline information for employment screening purposes; amending s. 415.505, F.S.; revising guidelines relating to child protective investigations; amending s. 415.51, F.S.; revising guidelines relating to access to information in cases of child abuse, abandonment, or neglect; creating ch. 435, F.S., relating to background screening for employment and background security checks required by law for employment; providing applicability and definitions; prescribing level 1 screening standards and level 2 screening standards; providing responsibilities and duties of specified employees and employers and guidelines relating to provision of screening information to the Florida Department of Law Enforcement and Department of Health and Rehabilitative Services; requiring affidavits signed under penalty of perjury from specified employers with respect to screening of personnel; providing notice and guidelines relating to exclusion from employment as a result of screening; providing exemptions from disqualification; providing alternative responsibility to the employer or employee for payment for screening; providing for confidentiality of personnel background check information; providing for sharing of personnel information among employers; amending s. 464.018, F.S.; revising and conforming provisions relating to disciplinary action against nurses; amending s. 447.208, F.S.; revising and conforming provisions relating to certain appeals heard by the Public Employees Relations Commission, based on allegations of child abuse or neglect; prohibiting classification by the Department of Health and Rehabilitative Services of child abuse reports; providing for a specified joint protocol for transferring certain screening responsibility to the Department of Law Enforcement; prohibiting failure to disclose involuntary or paid employment applications material facts used in making determinations as to qualifications for a position of trust, under specified circumstances, and providing penalties therefor; prohibiting using records information for purposes other than screening or releasing records information, under specified circumstances, and providing penalties therefor; providing an exemption, and providing for review and repeal thereof; prohibiting willfully, knowingly, or intentionally using or releasing juvenile records information for unauthorized purposes, under specified circumstances, and providing penalties therefor; amending s. 232.02, F.S., relating to home education programs; removing provision relating to pupil's residing with perpetrator of child abuse or neglect; amending s. 393.063, F.S.; redefining the term "screening" with respect to ch. 393, F.S., relating to developmental disabilities; amending s. 394.455, F.S.; redefining the term "screening" with respect to part I of ch. 394, F.S., the Florida Mental Health Act; amending s. 397.311, F.S.; redefining the term "background screening" with respect to specified provisions in ch. 397, F.S., relating to substance abuse services; amending s. 400.462, F.S.; redefining the term "screening" with respect to part IV of ch. 400, relating to home health agencies; amending s. 402.302, F.S.; redefining the term "screening" with respect to specified provisions in ch. 402, F.S.; amending s. 402.3055, F.S.; revising provisions relating to background checks required for licensure of child care facilities; amending s. 402.313, F.S.; revising guidelines for evaluation of registration and licensure system for family day care homes; amending s. 402.319, F.S.; deleting certain provisions relating to illegal use or release of information from the criminal records or central abuse registry or from specified juvenile records; amending s. 216.136, F.S.; removing requirement for development by the Child Welfare System Estimating Conference of estimates and projections of confirmed child abuse or neglect reports; amending s. 39.41, F.S., relating to court powers of disposition in dependency cases; providing for termination of supervision of long-term relative placement, termination of supervision of long-term foster care placement, or other termination of protective supervision as a permanency option for the child, under specified circumstances;

amending s. 402.3015, F.S.; revising the definition of "at-risk children" with respect to specified provisions relating to the subsidized child care program; providing effective dates.

WHEREAS, over 74,000 children in Florida were abused in 1994 by members of their own families or their caretakers, and

WHEREAS, the Task Force on Domestic Violence reports that domestic violence has reached epidemic proportions, and

WHEREAS, child abuse is 15 times more likely to occur in families where domestic violence is present, and

WHEREAS, research indicates that as many as two-thirds of abused children are parented by battered women, and

WHEREAS, research suggests that early exposure to violence in the family, including witnessing violence or physical abuse, significantly increases the risk of violent behavior during adolescence and adulthood, and

WHEREAS, state residents are more likely to be victims of abuse in their own homes at the hands of family members than they are likely to be victims of crimes committed by strangers, and

WHEREAS, it is a right of all state residents to live in their own homes free from abuse and neglect by other family members, and

WHEREAS, state law enforcement agencies do not intensively focus on issues of family violence, and

WHEREAS, an effective approach to family violence requires an enhanced degree of coordination, communication, and involvement between law enforcement agencies and social service agencies, NOW, THEREFORE,

House Amendment 2 (with Title Amendment)—On page 2, line 21, insert:

Section 2. Subsection (3) of section 415.5018, Florida Statutes, is amended to read:

415.5018 District authority and responsibilities.—

(3) CHILD PROTECTIVE INVESTIGATION; COUNTY SHERIFF'S OFFICE OR LOCAL POLICE DEPARTMENT OPTION.—Within existing resources, a district, with the approval of the district health and human services board, and the secretary of the department *shall* ~~may~~ enter into an agreement with a county sheriff's office or local police department that is jurisdictionally responsible to allow such law enforcement entity to assume *a lead in conducting any potential criminal investigations as well as* partial or full responsibility for conducting certain components of protective investigations under ss. 415.502-415.514 that are related to cases involving a criminal investigation. *The written agreement must specify how the requirements of ss.415.502-415.514 will be met.*

(a) The agreement between the district and the county sheriff's office or local police department must include the following assurances and information:

1. Assurance that the county sheriff's office or local police department will be in compliance with the procedural requirements of ss. 415.502-415.514.

2. Description of a protocol between the district and the county sheriff's office or local police department that at a minimum addresses the following:

a. Response to reports of abuse and neglect.

b. Investigations.

c. Assessment of risk.

d. Evidence gathering.

e. Classification of reports.

f. Appeals of classifications.

g. Communication and involvement with the state attorney.

h. Confidentiality of reports and access to information.

i. Utilization of the child protection team.

j. Storage and maintenance of records and other information.

3. Description of the transition of responsibility that assures the integrity and continuity of protective investigations.

4. Description of any necessary changes to department rules.

(b) County sheriff's office or local police department personnel assuming responsibility for conducting certain components of protective investigations shall receive training from the department relevant to child protective investigations and services.

(c) The secretary of the department shall dispose of a proposed agreement by approving or disapproving the agreement between a district and the county sheriff's office or local police department within 60 days after receipt. The secretary may negotiate modifications within this 60-day period.

~~(d) An agreement under this section shall be valid for 2 years after the date of approval by the secretary. At the end of 2 years, an agreement must be resubmitted to the secretary for approval.~~

~~(e) At any time, if the district and the county sheriff's office or local police department agree, through a joint letter of understanding, the agreement established under this section may be discontinued.~~

Section 3. Paragraph (h) of subsection (1) of section 415.505, 1994 Supplement, is amended to read:

415.505 Child protective investigations; institutional child abuse or neglect investigations.—

(1)

(h) Immediately upon receipt of a report alleging, or immediately upon learning during the course of an investigation, that:

1. The immediate safety or well-being of a child is endangered;

2. The family is likely to flee;

3.~~1.~~ A child died as a result of abuse or neglect;

4.~~2.~~ A child is a victim of aggravated child abuse as defined in s. 827.03; or

5.~~3.~~ A child is a victim of sexual battery or of sexual abuse as defined in s. 415.503,

the department shall *immediately transmit such report to the county sheriff's office or local police department that is jurisdictionally responsible. The law enforcement agency shall review the report and determine whether a criminal investigation needs to be conducted and shall assume lead responsibility for all criminal fact-finding activities.* ~~orally notify the appropriate state attorney and the appropriate law enforcement agency, which shall immediately conduct a joint criminal investigation, unless independent investigations are more feasible. In all cases, the department shall make a full written report to the state attorney within 3 days after making the oral report.~~ A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. If the department, as a result of its investigation, determines that there is cause to classify the report of the occurrence of an offense described in this paragraph as a proposed confirmed report rather than as an unfounded report, the department may recommend that criminal charges be filed against the alleged perpetrator. Any interested person who has information regarding an offense described in this paragraph may forward a statement to the state attorney as to whether prosecution is warranted and appropriate.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, line 10, after "defenses;" insert: amending s. 415.5018, F.S.; requiring the Department of Health and Rehabilitative Services to enter into an agreement with local law enforcement agencies regarding certain protective and criminal investigations; amending s. 415.505, F.S.; adding circumstances under which the department must notify the sheriff and local police department of a child abuse or neglect report; directing local law enforcement to assume the lead in criminal and fact-finding investigations;

On motions by Senator Meadows, the Senate concurred in the House amendments.

CS for SB 1536 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—1

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 1554 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1554—A bill to be entitled An act relating to telecommunications; amending s. 364.01, F.S.; finding that competition in the provision of local exchange telecommunications services is in the public interest; finding that the transition to competition will require regulatory oversight; finding that it is in the public interest to certificate new providers; amending s. 364.02, F.S.; defining the terms "alternative local exchange telecommunications company," "commercial mobile radio service provider," "local exchange telecommunications company," and "local exchange telecommunications service"; redefining the term "telecommunications company" to exclude certain companies; creating s. 364.056, F.S.; defining the terms "basic services", "network access services", "nonbasic services", and "price regulation"; providing a price regulation scheme for such services; capping rates for basic service and network access services for 3 years; providing for increased rates after 3 years, subject to limitations; requiring local exchange telecommunications companies to impute certain costs into prices for nonbasic services; amending s. 364.057, F.S.; authorizing the Florida Public Service Commission to approve experimental services; amending s. 364.058, F.S.; providing for expedited as well as limited proceedings; creating s. 364.059, F.S.; providing an alternative regulatory scheme for small local exchange telecommunications companies; prohibiting competition in a small company's territory if the company has not elected price regulation; amending s. 364.09, F.S.; authorizing telecommunications companies to provide a lifeline assistance plan to certain subscribers; creating s. 364.165, F.S.; requiring interconnection among companies providing local exchange telecommunications services; providing procedures for setting the charges and conditions for such interconnection; requiring local exchange telecommunications companies to unbundle network features and functions; requiring local exchange telecommunications companies to resell certain local exchange telecommunications services; providing a procedure for resolving disputes; creating s. 364.1655, F.S.; requiring number portability among companies providing local exchange telecommunications services; requiring such companies to provide access to specified services; amending s. 364.183, F.S.; providing for Florida Public Service Commission access to relevant records of companies providing local exchange telecommunications services; amending s. 364.24, F.S.; providing penalties for disclosure of certain customer records; creating s. 364.245, F.S.; providing for discontinuation of telecommunications service used for unlawful purposes; providing for reinstatement of such services; amending s. 364.335, F.S.; deleting certain requirements relating to application for a certificate; creating s. 364.3353, F.S.; requiring an alternative local exchange telecommunications company to obtain a certificate; providing requirements; providing procedures; creating s. 364.3358, F.S.; authorizing the commission to resolve service disputes; providing access to certain company records; providing penalties; amending s. 364.336, F.S.; authorizing the payment of regulatory assessment fees on a 12-month basis; amending s. 364.337, F.S.; providing procedures for alternative access vendors to become alternative local exchange telecommunications companies; requiring all companies providing local exchange service to provide network access; amending s. 364.3375, F.S.; providing for compensation for pay telephone service providers under certain circumstances; providing for the eligibility of pay telephone stations to subscribe to certain services; amending s. 364.3382, F.S.; requiring companies providing local exchange service to provide certain information to customers; amending s. 364.339, F.S.; expanding the scope of shared tenant services; authorizing the commission to impose certain requirements; creating s. 364.375, F.S.; defining universal service; requiring local exchange telecommunications companies to provide certain services under specified conditions for a time certain; providing for an interim mechanism for universal service; requiring the commission to study certain issues and provide legislative recommendations; providing procedures for alternative local exchange telecommunications companies to provide such services; creating s. 364.502, F.S.; requiring local exchange telecommunications companies and alternative local exchange telecommunications companies that provide video programming to designate capacity for public use; prohibiting local governments from treating telecommunications companies in a discriminatory manner; requiring the commission to make specified reports and recommendations to the Legislature; requiring the commission to implement a public information program relating to local exchange competition; requiring the Department of Labor and Employment Security to provide assistance to certain telecommunications workers; creating a committee to develop a statewide telecommunications policy; providing savings clauses related to extended area service, specified settlement agreements, and proceedings; providing for severability; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 4, line 28, strike everything after the enacting clause and insert:

Section 1. Paragraph (f) is added to subsection (9) of section 166.231, Florida Statutes, 1994 Supplement, to read:

166.231 Municipalities; public service tax.—

(9) A municipality may levy a tax on the purchase of telecommunication services as defined in s. 203.012 as follows:

(f)1. If the sale of a taxable telecommunication service also involves the sale of an exempt cable television service, the tax shall be applied to the value of the taxable service when it is sold separately.

2. If the company does not offer this service separately, the consideration paid shall be separately identified and stated with respect to the taxable and exempt portions of the transaction as a condition of the exemption.

3. The amounts identified as taxable in subparagraphs 1. and 2. shall not be less than the rates set forth by the local exchange companies in the tariffs filed with the Public Service Commission on January 1, 1995, for the equivalent service being offered in the applicable service area.

Purchases of local telephone service or other telecommunications service for use in the conduct of a telecommunications service for hire or otherwise for resale are exempt from the tax imposed by this subsection.

Section 2. Subsection (9) is added to section 203.01, Florida Statutes, to read:

203.01 Tax on gross receipts for utility services.—

(9)(a) If the sale of a taxable telecommunication service also involves the sale of commercial or cable television service exempt under the provision of s. 203.012(2)(b)2., the tax shall be applied to the value of the taxable service when it is sold separately.

(b) If the company does not offer this service separately, the consideration paid shall be separately identified and stated with respect to the taxable and exempt portions of the transaction as a condition of the exemption.

(c) The amounts identified as taxable in paragraphs (a) and (b) shall not be less than the rates set forth by the local exchange companies in the tariffs filed with the Public Service Commission on January 1, 1995, for the equivalent service being offered in the applicable service area.

Section 3. Paragraph (e) of subsection (1) of section 212.05, Florida Statutes, 1994 Supplement, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

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

(e)1. At the rate of 6 percent on charges for:

a. All telegraph messages and long-distance telephone calls beginning and terminating in this state, telecommunication service as defined in s. 203.012, and those services described in s. 203.012(2)(a), except that the tax rate for charges for telecommunication service is 7 percent.

b. Any television system program service.

c. The installation of telecommunication and telegraphic equipment.

d. Electrical power or energy, except that the tax rate for charges for electrical power or energy is 7 percent.

2. For purposes of this part, "television system program service" means the transmitting, by any means, of any audio or video signal to a subscriber for other than retransmission, or the installing, connecting, reconnecting, disconnecting, moving, or changing of any equipment related to such service. For purposes of this part, the term "telecommunication service" does not include local service provided through a pay telephone. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for telecommunication or telegraph services or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase or sale of telecommunication, television system program, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

3. Telegraph messages and telecommunication services which originate or terminate in this state, other than interstate private communication services, and are billed to a customer, telephone number, or device located within this state are taxable under this paragraph. Interstate private communication services are taxable under this paragraph as follows:

a. One hundred percent of the charge imposed at each channel termination point within this state;

b. One hundred percent of the charge imposed for the total channel mileage between each channel termination point within this state; and

c. The portion of the interstate interoffice channel mileage charge as determined by multiplying said charge times a fraction, the numerator of which is the air miles between the last channel termination point in this state and the vertical and horizontal coordinates, 7856 and 1756, respectively, and the denominator of which is the air miles between the last channel termination point in this state and the first channel termination point outside this state. The denominator of this fraction shall be adjusted, if necessary, by adding the numerator of said fraction to similarly determined air miles in the state in which the other channel termination point is located, so that the summation of the apportionment factor for this state and the apportionment factor for the other state is not greater than one, to ensure that no more than 100 percent of the interstate interoffice channel mileage charge can be taxed by this state and another state.

4. The tax imposed pursuant to this paragraph shall not exceed $50,000 per calendar year on charges to any person for interstate telecommunications services defined in s. 203.012(4) and (7)(b), if the majority of such services used by such person are for communications originating outside of this state and terminating in this state. This exemption shall only be granted to holders of a direct pay permit issued pursuant to this subparagraph. No refunds shall be given for taxes paid prior to receiving a direct pay permit. Upon application, the department may issue a direct pay permit to the purchaser of telecommunications services authorizing such purchaser to pay tax on such services directly to the department. Any vendor furnishing telecommunications services to the holder of a valid direct pay permit shall be relieved of the obligation to collect and remit the tax on such service. Tax payments and returns pursuant to a direct pay permit shall be monthly. For purposes of this subparagraph, the term "person" shall be limited to a single legal entity and shall not be construed as meaning a group or combination of affiliated entities or entities controlled by one person or group of persons. For purposes of this subparagraph, for calendar year 1986, the term "calendar year" means the last 6 months of 1986.

5. If the sale of a television system program service, as defined in this paragraph, also involves the sale of an item exempt under s. 212.08(7)(j), the tax shall be applied to the value of the taxable service when it is sold separately. If the company does not offer this service separately, the consideration paid shall be separately identified and stated with respect to the taxable and exempt portions of the transaction as a condition of the exemption, except that the amount identified as taxable shall not be less than the cost of the service.

Section 4. Section 364.01, Florida Statutes, is amended to read:

364.01 Powers of commission, legislative intent.—

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

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

(3) The Legislature finds that the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications service, encourage technological innovation, and encourage investment in telecommunications infrastructure. The Legislature further finds that the transition from the monopoly provision of local exchange service to the competitive provision thereof will require a minimum of regulatory oversight to protect consumers and provide for the development of fair and effective competition. The Legislature further finds that changes in regulations allowing increased competition in telecommunications services could provide the occasion for increases in the telecommunications workforce; therefore, it is in the public interest that competition in telecommunications services lead to a situation that enhances the high-technological skills and the economic status of the telecommunications workforce.

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

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

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

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

(d)~~(c)~~ *Promote competition by encouraging new entrants into telecommunications markets and by allowing a transitional period in which new entrants are subject to a lesser level of regulatory oversight than local exchange telecommunications companies.* ~~Encourage cost-effective technological innovation and competition in the telecommunications industry if doing so will benefit the public by making modern and adequate telecommunications services available at reasonable prices.~~

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

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

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

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

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

Section 5. Section 364.02, Florida Statutes, is amended to read:

364.02 Definitions.—As used in this chapter:

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

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

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

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

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

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

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

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

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

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

(11)~~(6)~~ "Service" is to be construed in its broadest and most inclusive sense.

(12)~~(7)~~ "Telecommunications company" includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision *in* ~~of~~ the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. The term "telecommunications company" does not include an entity which provides a telecommunications facility exclusively to a certificated telecommunications company, *a commercial mobile radio service provider, a facsimile transmission service, a private computer data network company not offering service to the public for hire,* ~~or a specialized mobile radio service operator, a private radio carrier, a radio common carrier, a cellular radio telecommunications carrier,~~ or a cable television company providing cable service as defined in 47 U.S.C. 522. However, each *commercial mobile* radio *service provider* ~~common carrier or cellular radio telecommunications carrier~~ shall continue to be liable for any taxes imposed pursuant to *chapters* ~~chapter~~ 203 *and 212* and any *fees assessed* ~~taxes imposed~~ pursuant to *s. 364.025* ~~chapter 212~~.

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

Section 6. Effective January 1, 1996, section 364.025, Florida Statutes, is created to read:

364.025 Universal services.—

(1) For the purposes of this section, the term "universal service" means an evolving level of access to telecommunications services that, taking into account advances in technologies, services, and market demand for essential services, the commission determines should be provided at just, reasonable, and affordable rates to customers, including those in rural, economically disadvantaged, and high-cost areas. It is the intent of the Legislature that universal service objectives be maintained after the local exchange market is opened to competitively provided services. It is also the intent of the Legislature that during this transition period the ubiquitous nature of the local exchange telecommunications companies be used to satisfy these objectives. For a period of 4 years after the effective date of this section, each local exchange telecommunications company shall be required to furnish basic local exchange telecommunications service within a reasonable time period to any person requesting such service within the company's service territory.

(2) The Legislature finds that each telecommunications company should contribute its fair share to the support of the universal service objectives and carrier-of-last-resort obligations. For a transitional period not to exceed January 1, 2000, an interim mechanism for maintaining universal service objectives and funding carrier-of-last-resort obligations shall established by the commission, pending the implementation of a permanent mechanism. The interim mechanism shall be implemented by no later than January 1, 1996, and shall be applied in a manner that ensures that each alternative local exchange telecommunications company contributes its fair share to the support of universal service and carrier-of-last-resort obligations. The interim mechanism applied to each alternative local exchange telecommunications company shall reflect a fair share of the local exchange telecommunications company's recovery of investments made in fulfilling its carrier-of-last-resort obligations, and the maintenance of universal service objectives. The commission shall ensure that the interim mechanism does not impede the development of residential consumer choice or create an unreasonable barrier to competition. In reaching its determination, the commission shall not inquire into or consider any factor that is inconsistent with s. 364.051(c). The costs and expenses of any government program or project required in part II of this chapter shall not be recovered under this section.

(3) In the event any party, prior to January 1, 2000, believes that circumstances have changed substantially to warrant a change in the interim mechanism, that party may petition the commission for a change, but the commission shall grant such petition only after an opportunity for a hearing and a compelling showing of changed circumstances, including that the provider's customer population includes as many residential as business customers. The commission shall act on any such petition within 120 days.

(4) Prior to the expiration of this 4-year period, the Legislature shall establish a permanent universal service mechanism upon the effective date of which any interim recovery mechanism for universal service objectives or carrier-of-last-resort obligations imposed on alternative local exchange telecommunications companies shall terminate. The commission is directed to research the issue of a universal service and carrier-of-last-resort mechanism and recommend to the Legislature what the commission determines to be a reasonable and fair mechanism for providing to the greatest number of customers basic local exchange telecommunications service at an affordable price. The recommendation shall be provided to the President of the Senate and the Speaker of the House of Representatives no later than January 1, 1997. The recommendation shall address the following:

(a) Whether a subsidy or some other mechanism is necessary.

(b) If a subsidy is necessary, the minimum amount needed and a mechanism to collect the required amount.

(c) If a subsidy is necessary, a mechanism to distribute the subsidy funds.

(d) If a subsidy is necessary, from which providers of telecommunications services the subsidy should be collected.

(e) Whether the deaveraging of basic local exchange telecommunications service rates should be required to more appropriately reflect the cost of providing service.

(f) Whether targeted subsidies are more appropriate than average basic local exchange telecommunications service pricing for maintaining universal service objectives

(5) After January 1, 2000, an alternative local exchange telecommunications company may petition the commission to become the universal

service provider and carrier of last resort in areas requested to be served by that alternative local exchange telecommunications company. Upon petition of an alternative local exchange telecommunications company, the commission shall have 120 days to vote on granting in whole or in part or denying the petition of the alternative local exchange company. The commission may establish the alternative local exchange telecommunications company as the universal service provider and carrier of last resort, provided that the commission first determines that the alternative local exchange telecommunications company will provide high-quality, reliable service. In the order establishing the alternative local exchange telecommunications company as the universal service provider and carrier of last resort, the commission shall set the period of time in which such company must meet those objectives and obligations and shall set up any mechanism needed to aid such company in carrying out these duties.

(6) By December 1, 1996, the Office of the Public Counsel shall submit a report to the commission on whether the interim mechanism should continue to serve as a means for assisting in the funding of universal service objectives and carrier-of-last-resort obligations or if a different mechanism is needed.

Section 7. Section 364.035, Florida Statutes, is amended to read:

364.035 Rate fixing; criteria service complaints.—

(1) In fixing the just, reasonable, and compensatory rates, charges, fares, tolls, or rentals to be observed and charged for service within the state by any and all telecommunications companies under its jurisdiction, the commission is authorized to give consideration, among other things, to the efficiency, sufficiency, and adequacy of the telecommunications facilities provided and the services rendered, including energy conservation and the efficient use of alternative energy resources; the value of such service to the public; and the ability of the telecommunications company to improve such service and facilities. However, a telecommunications company may not be denied a reasonable rate of return upon its rate base in any order entered pursuant to such proceedings. In its consideration of a reasonable rate of return, the commission shall hear service complaints, if any, that may be presented by subscribers and the public during any proceedings involving such rates, charges, fares, tolls, or rentals. However, service complaints may not be taken up or considered by the commission at any proceedings involving rates, charges, fares, tolls, or rentals unless the telecommunications company has been given at least 30 days' written notice thereof, and any proceeding may be extended, prior to final determination, for such period. Any order issued by the commission under this section may not be made effective until a reasonable time, considering the factor of growth in the community and availability of necessary equipment, has been given the telecommunications company involved to correct the cause of service complaints.

(2) The power and authority herein conferred upon the commission shall not cancel or amend any existing punitive powers of the commission but shall be supplementary thereto and shall be construed liberally to further the legislative intent that adequate service be rendered by telecommunications companies in the state in consideration for the rates, charges, fares, tolls, and rentals fixed by the commission and observed by the telecommunications companies under its jurisdiction.

~~(3) Each local exchange telecommunications company regulated pursuant to this section shall file with the commission every 4 years or 4 years after the company's most recent proceeding conducted under this section, a report consisting of, at a minimum, the modified minimum filing requirements then required by the commission by rule for rate review proceedings held pursuant to this section. Each local exchange telecommunications company shall serve a copy of such report on the Public Counsel, and shall make it available to each party to its most recent rate review proceeding if requested by such party, concurrently with its filing with the commission. The commission shall, within 10 days after its receipt of such report, make copies of the report available to the public, notwithstanding any other law to the contrary, at no more than its actual costs of reproducing the report. However, local exchange telecommunications companies regulated pursuant to this section which serve fewer than 100,000 access lines shall file the minimum filing report described in this section every 5 years or 5 years after the company's most recent rate review proceeding conducted in accordance with this section. In determining the modified minimum filing requirements for companies with fewer than 100,000 access lines, the commission may impose different or reduced requirements from those imposed on other local exchange telecommunications companies pursuant to this subsection. It is the legislative intent in requiring the mandatory filing of the minimum filing requirements that the Public Counsel and other substantially affected persons be assured of periodically obtaining the necessary information to reasonably ascertain whether the rates and charges of a local exchange telecommunications company are just, reasonable, not unjustly discriminatory, not in violation of law, and not yielding excessive compensation for the service rendered. The commission shall implement this section for all local exchange telecommunications companies within 18 months after October 1, 1990, by requiring approximately one-third of the local exchange telecommunications companies to file each 6 months after October 1, 1990. In determining the order of filing of the particular local exchange telecommunications companies, the commission shall consider the time interval since each company's last rate case.~~

Section 8. Section 364.051, Florida Statutes, is created to read:

364.051 Price regulation.—

(1) SCHEDULE.—Notwithstanding any other provisions of this chapter, the following local exchange telecommunications companies shall become subject to the price regulation described in this section on the following dates:

(a) For a local exchange telecommunications company with 100,000 or more access lines in service as of July 1, 1995, such company may file with the commission a notice of election to be under price regulation effective January 1, 1996, or when an alternative local exchange telecommunications company is certificated to provide local exchange telecommunications services in its service territory, whichever is later.

(b) Effective on the date of filing its election with the commission, but no sooner than January 1, 1996, any local exchange telecommunications company with fewer than 100,000 access lines in service on July 1, 1995, that elects pursuant to s. 364.052 to become subject to this section.

(c) Each company subject to this section shall be exempt from rate base, rate of return regulation and the requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18.

(2) BASIC LOCAL TELECOMMUNICATIONS SERVICE.—Price regulation of basic local telecommunications service shall consist of the following:

(a) Effective January 1, 1996, the rates for basic local telecommunications service of each company subject to this section shall be capped at the rates in effect on July 1, 1995, and such rates shall not be increased prior to January 1, 1999.

(b) Upon the date of filing its election with the commission, the rates for basic local telecommunications service of a company that elects to become subject to this section shall be capped at the rates in effect on that date and shall remain capped for 3 years. There shall be a flat-rate pricing option for basic local telecommunications services, and mandatory measured service for basic local telecommunications services shall not be imposed.

(3) By December 1, 1997, the commission shall report and recommend to the Legislature as to whether there is a continued need for basic local telecommunications service prices to remain capped after January 1, 1999, or 3 years after the effective date under paragraph (2)(b) or whether there is some other means, excluding rate of return regulation, to ensure reasonable and affordable rates for basic local telecommunications service.

(4) In making the determination as to whether any regulatory mechanism is needed to ensure reasonable and affordable rates for basic local telecommunications service, the commission shall consider the number of alternative local exchange telecommunications companies certificated in the geographic area, the number of customers actually receiving telecommunications services from other providers in the geographic area, the level of marketing activity being conducted in the local telecommunications company's geographic area, and such other factors which the commission deems appropriate to determine whether the level of competition in the area justifies the elimination of any regulatory mechanism to assure reasonable and affordable basic local telecommunication service rates.

(5) Notwithstanding the provisions of subsection (2), any local exchange telecommunications company that believes that circumstances have changed substantially to justify an increase in the rates for basic local telecommunications services prior to January 1, 1999, may petition the commission for a rate increase on or after January 1, 1998, but the

commission shall grant such petition only after an opportunity for a hearing and a compelling showing of changed circumstances. The costs and expenses of any government program or project required in part II of this chapter shall not be recovered under this subsection unless such costs and expenses are incurred in the absence of a bid and subject to carrier-of-last-resort obligations as provided for in part II of this chapter. The commission shall act upon any such petition within 120 days of its filing.

(6) NON-BASIC SERVICES.—Price regulation of non-basic services shall consist of the following:

(a) Each company subject to this section shall maintain tariffs with the commission containing the terms, conditions and rates for each of its non-basic services, and may set or change, on 15 days' notice, the rate for each of its non-basic services, except that a price increase for any non-basic service category shall not exceed 20 percent annually, and the rate shall be presumptively valid. However, for purposes of this subsection, the prices of:

1. A voice-grade, flat-rate, multi-line business local exchange service, including multiple individual lines, centrex lines, private branch exchange trunks, and any associated hunting services, that provides dial tone and local usage necessary to place a call within a local exchange calling area; and

2. Telecommunications services provided to the SUNCOM Network, as defined in chapter 282,

may be increased annually but by no more than the cumulative change in inflation less 1 percent. Inflation shall be measured by the changes in the Gross Domestic Product Fixed 1987 Weights Price Index, or successor fixed weight price index, published in the Survey of Current Business, or a successor publication, by the United States Department of Commerce. Nothing contained in this section shall prevent the local exchange telecommunications company from meeting offerings by any competitive provider of the same, or functionally equivalent, non-basic services in a specific geographic market or to a specific customer by deaveraging the price of any non-basic service, packaging non-basic services together or with basic services, using volume discounts and term discounts, and offering individual contracts. However, the local exchange telecommunications company shall not engage in any anticompetitive act or practice, nor unreasonably discriminate among similarly situated customers.

(b) The commission shall have continuing regulatory oversight of non-basic services for purposes of ensuring resolution of service complaints, preventing cross-subsidization of non-basic services with revenues from basic services, and ensuring that all providers are treated fairly in the telecommunications market. The cost standard for determining cross-subsidization is whether the total revenue from a non-basic service is greater than or equal to the total long-run incremental cost of the service. Total long-run incremental cost means service-specific volume and non-volume-sensitive costs.

(c) The price charged to a consumer for a non-basic service shall cover the direct costs of providing the service and shall, to the extent a cost is not included in the direct cost, include as an imputed cost the price charged by the company to competitors for any monopoly component used by a competitor in the provision of its same or functionally equivalent service.

Section 9. Section 364.052, Florida Statutes, is created to read:

364.052 Regulatory methods for small local exchange telecommunications companies.—

(1) For purposes of this section, a small local exchange telecommunications company is a local exchange telecommunications company certificated by the commission prior to July 1, 1995, which has fewer than 100,000 access lines in service on that date.

(2) A small local exchange telecommunications company shall remain under rate base, rate of return regulation until the company elects to become subject to s. 364.051, or January 1, 2001, whichever occurs first. Small local exchange telecommunications companies not electing the price regulation provided for under s. 364.051 shall also be regulated pursuant to ss. 364.03, 364.035 (1) and (2), 364.05, and 364.055 and other provisions necessary for rate base, rate of return regulation. If a small local exchange telecommunications company has not elected to be regulated under s. 364.051, by January 1, 2001, the company shall remain under rate base, rate of return regulation until such time as a certificated alternative local exchange company provides basic local telecommunications service in the company's territory. At such time, the small local exchange telecommunications company shall be subject to s. 364.051.

(a) Companies subject to this section shall maintain depreciation rates approved by the commission or shall set their depreciation rates within a commission-approved band of rates. By January 1, 1996, the commission shall establish, by rule, bands of depreciation rates for companies subject to this section and shall adjust, by rule, these bands every 3 years. Comprehensive depreciation studies will not be required to be filed by companies subject to this section which set their depreciation rates within the band of depreciation rates established by the commission.

(b) By January 1, 1996, the commission shall adopt, by rule, streamlined procedures for regulating companies subject to this section. These procedures shall minimize the burdens of regulation with regard to audits, investigations, service standards, cost studies, reports and other matters, and the commission shall establish, by rule, only those procedures that are cost-justified, are essential to promoting universal service, and are in the public interest. Upon petition filed in this rulemaking proceeding, the commission shall review and may approve any regulations unique to the specific circumstances of a company subject to this section.

(3) A company subject to this section may at any time after January 1, 1996, elect to be regulated pursuant to s. 364.051. If such a company so elects or provides cable television programming services directly or as video dialtone applications authorized under 47 U.S.C., s. 214, except as provided for in compliance with part II of this chapter, a certificated alternative local exchange company may provide local exchange telecommunications services within the territory of the electing company.

(4) Any alternative local exchange telecommunications company competing within the territory of any small local exchange telecommunications company must do so on an exchange-wide basis for the provision of flat-rated, switched residential and business local exchange telecommunications services in all exchanges in which they elect to serve, unless the commission determines otherwise. The alternative local exchange telecommunications company may petition and the commission has the authority to determine that it is in the public interest for an alternative local exchange telecommunications company to service a geographic territory that is less than an entire exchange.

(5) Any company subject to this section shall continue to function as the universal service provider and carrier of last resort in the territory in which such company was certificated to provide service on July 1, 1995; provided, however, that after January 1, 2001, such company shall only be required to act as the universal service provider and carrier of last resort if the commission finds that it is economically feasible for such company to remain the universal service provider and carrier of last resort. If the commission finds that it is not economically feasible for a small local exchange telecommunications company to remain the carrier of last resort, the commission shall establish a funding mechanism to permit such company to fulfill its obligations as the carrier of last resort.

Section 10. Subsection (3) is added to section 364.057, Florida Statutes, to read:

364.057 Experimental and transitional rates *and services*.—

(3) After July 1, 1995, the commission may authorize experimental services, limited to two-way, intrastate, residential communications services, for the purposes of testing marketing strategies or technical feasibility, and the commission shall place reasonable restrictions on the time and geographic area in which such experimental services are provided, except that no such authorized experiment shall extend beyond December 31, 1995, unless the entity has applied for a certificate pursuant to the provisions of this chapter.

Section 11. Subsection (1) of section 364.058, Florida Statutes, is amended to read:

364.058 Limited proceedings.—

(1) Upon petition or its own motion, the commission may conduct a limited *or expedited* proceeding to consider and act upon any matter within its jurisdiction~~, including any matter the resolution of which requires a telecommunications company to adjust its rates~~.

Section 12. Section 364.10, Florida Statutes, is amended to read:

364.10 Undue advantage to person or locality prohibited*; exception.*—

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

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

Section 13. Section 364.16, Florida Statutes, is amended to read:

364.16 Connection of lines and transfers*; local interconnection; telephone number portability.*—

(1) Whenever the commission finds that connections between any two or more *local exchange* telecommunications companies, whose lines form a continuous line of communication or could be made to do so by the construction and maintenance of suitable connections at common points, can reasonably be made and efficient service obtained, and that such connections are necessary, the commission may require such connections to be made, may require that telecommunications services be transferred, and may prescribe through lines and joint rates and charges to be made, used, observed, and in force in the future and fix the rates and charges by order to be served upon the company or companies affected.

(2) Each alternative local exchange telecommunications company shall provide access to, and interconnection with, its telecommunications services to any other provider of local exchange telecommunications services requesting such access and interconnection at nondiscriminatory prices, terms, and conditions. If the parties are unable to negotiate mutually acceptable prices, terms, and conditions after 60 days, either party may petition the commission and the commission shall have 120 days to make a determination after proceeding as required by s. 364.162(6) pertaining to interconnection services.

(3) Each local exchange telecommunications company shall provide access to, and interconnection with, its telecommunications facilities to any other provider of local exchange telecommunications services requesting such access and interconnection at nondiscriminatory prices, rates, terms, and conditions established by the procedures set forth in s. 364.162.

(a) No local exchange telecommunications company or alternative local exchange telecommunications company shall knowingly deliver traffic, for which terminating access service charges would otherwise apply, through a local interconnection arrangement without paying the appropriate charges for such terminating access service.

(b) Any party with a substantial interest may petition the commission for an investigation of any suspected violation of paragraph (a). In the event any certificated local exchange service provider knowingly violates paragraph (a), the commission shall have jurisdiction to arbitrate bona fide complaints arising from the requirements of this subsection and shall, upon such complaint, have access to all relevant customer records and accounts of any telecommunications company.

(4) In order to assure that consumers have access to different local exchange service providers without being disadvantaged, deterred, or inconvenienced by having to give up the consumer's existing local telephone number, all providers of local exchange services must have access to local telephone numbering resources and assignments on equitable terms that include a recognition of the scarcity of such resources and are in accordance with national assignment guidelines. Each local exchange provider, except small local exchange telecommunications companies under rate of return regulation, shall provide a temporary means of achieving telephone number portability. The parties, under the direction of the commission, shall set up a number portability standards group by no later than September 1, 1995, for the purposes of investigation and development of appropriate parameters, costs, and standards for number portability. If the parties are unable to successfully negotiate the prices, terms, and conditions of a temporary number portability solution, the commission shall establish a temporary number portability solution by no later than January 1, 1996. Each local exchange service provider shall make necessary modifications to allow permanent portability of local telephone numbers between certificated providers of local exchange service as soon as reasonably possible after the development of national standards. The parties shall negotiate the prices, terms, and conditions for permanent telephone number portability arrangements. In the event the parties are unable to satisfactorily negotiate the prices, terms, and conditions, either party may petition the commission and the commission shall, after opportunity for a hearing, set the rates, terms, and conditions. The prices and rates shall not be below cost. Number portability between different certificated providers of local exchange service at the same location shall be provided temporarily no later than January 1, 1996.

(5) When requested, each certificated telecommunications company shall provide access to any poles, conduits, rights-of-way, and like facilities that it owns or controls to any local exchange telecommunications company or alternative local exchange telecommunications company pursuant to reasonable rates and conditions mutually agreed to which do not discriminate between similarly situated companies.

Section 14. Section 364.161, Florida Statutes, is created to read:

364.161 Unbundling and resale.—

(1) Upon request, each local exchange telecommunications company shall unbundle all of its network features, functions, and capabilities, including access to signaling databases, systems and routing processes, and offer them to any other telecommunications provider requesting such features, functions or capabilities for resale to the extent technically and economically feasible. In no event, however, shall the local exchange telecommunications company be required to offer such unbundled services, network features, functions or capabilities, or unbundled local loops at prices that are below cost. The prices, rates, terms, and conditions for the unbundled services shall be established by the procedure set forth in s. 364.162 and shall be equally applicable to both the local exchange telecommunications company and its affiliates in the provision of their own service, until such time as the local exchange telecommunications company petitions the commission and the commission determines otherwise, but in no event prior to July 1, 1999.

(2) Other than ensuring that the resale is of the same class of service, no local exchange telecommunications company may impose any restrictions on the resale of its services or facilities except those the commission may determine are reasonable. The local exchange telecommunications company's currently tariffed, flat-rated, switched residential and business services shall not be required to be resold until the local exchange telecommunications company provides and packages inter-LATA services and video programming. In no event shall the price of any service provided for resale be below cost.

(3) Only after an alternative local exchange telecommunications company has been determined to be a carrier of last resort shall such company, upon request by another telecommunications provider, be required, for purposes of resale, to unbundle its local exchange services, network features, functions and capabilities, including its local loop, to the extent such unbundling is technically and economically feasible. The parties shall negotiate the terms, conditions, and prices of any feasible unbundling request. If the parties cannot reach a satisfactory resolution within 60 days, either party may petition the commission to arbitrate the dispute and the commission shall make a determination within 120 days. The prices shall not be below cost.

Section 15. Section 364.162, Florida Statutes, is created to read:

364.162 Negotiated prices for interconnection and for the resale of services and facilities; commission rate setting.—

(1) Any party who, on July 1, 1995, has an application on file with the commission to become an alternative local exchange telecommunications company shall have until August 31, 1995, to negotiate with a local exchange telecommunications company mutually acceptable prices, terms, and conditions of interconnection and for the resale of services and facilities.

(2) If a negotiated price is not established by August 31, 1995, either party may petition the commission to establish nondiscriminatory rates, terms, and conditions of interconnection and for the resale of services and facilities. Whether set by negotiation or by the commission, interconnection and resale prices, rates, terms, and conditions shall be filed with the commission before their effective date. The commission shall have the authority to arbitrate any dispute regarding interpretation of interconnection or resale prices and terms and conditions.

(3) In the event that the commission receives a single petition relating to either interconnection or resale of services and facilities, it shall vote, within 120 days following such filing, to set nondiscriminatory rates,

terms, and conditions, except that the rates shall not be below cost. If the commission receives one or more petitions relating to both interconnection and resale of services and facilities, the commission shall conduct separate proceedings for each and, within 120 days following such filing, make two separate determinations setting such nondiscriminatory rates, terms, and conditions, except that the rates shall not be below cost.

(4) In setting the local interconnection charge, the commission shall determine that the charge is sufficient to cover the cost of furnishing interconnection.

(5) The commission shall ensure that, if the rate it sets for a service or facility to be resold provides a discount below the tariff rate for such service or facility which appropriately reflects the local exchange telecommunications company's avoidance of the expense and cost of marketing such service or facility to retail customers, such rate must not be below cost. The commission shall also assure that this rate is not set so high that it would serve as a barrier to competition.

(6) An alternative local exchange telecommunications company that did not have an application for certification on file with the commission on July 1, 1995, shall have 60 days from the date it is certificated to negotiate with a local exchange telecommunications company mutually acceptable prices, terms, and conditions of interconnection and for the resale of services and facilities. If a negotiated price is not established after 60 days, either party may petition the commission to establish nondiscriminatory rates, terms, and conditions of interconnection and for the resale of services and facilities. The commission shall have 120 days to make a determination after proceeding as required by subsection (3).

(7) Prior to July 1, 1999, the parties may negotiate a new local interconnection charge to be effective not earlier than July 1, 1999. If the parties cannot satisfactorily negotiate a new local interconnection charge, either party may petition the commission to resolve the matter. In the event any party, prior to July 1, 1999, believes that circumstances have changed substantially to warrant a different price for local interconnection, that party may petition the commission for a price change, but the commission shall grant such petition only after an opportunity for a hearing and a compelling showing of changed circumstances, including that the provider's customer population includes as many residential as business customers. The commission shall act on any such petition within 120 days.

Section 16. Section 364.163, Florida Statutes, is created to read:

364.163 Network access services.—For purposes of this section, "network access service" is defined as any service provided by a local exchange telecommunications company to a telecommunications company certificated under this chapter or licensed by the Federal Communications Commission to access the local exchange telecommunications network, excluding the local interconnection arrangements in s. 364.16 and the resale arrangements in s. 364.161. Each local exchange telecommunications company subject to s. 364.051 shall maintain tariffs with the commission containing the terms, conditions, and rates for each of its network access services.

(1) Effective January 1, 1996, the rates for network access services of each company subject to this section shall be capped at the rates in effect on July 1, 1995, and shall remain capped until January 1, 1999. Upon the date of filing its election with the commission, the network access service rates of a company that elects to become subject to this section shall be capped at the rates in effect on that date and shall remain capped for 3 years.

(2) Upon a determination by the Legislature that competition exists and after the termination of the caps imposed on rates by subsection (1), a company subject to this section may, on 30 days' notice, annually adjust any specific network access service rate in an amount not to exceed the cumulative change in inflation experienced after the date of the last adjustment, provided, however, that no such adjustment shall ever exceed 3 percent annually of the then-current prices. Inflation shall be measured by the changes in Gross Domestic Product Fixed 1987 Weights Price Index, or successor fixed weight price index, published in the Survey of Current Business, or successor publication, by the United States Department of Commerce.

(3) After the termination of the caps imposed on rates by subsection (1), a company subject to this section may, at any time, petition the commission for a network access service rate change to recover the cost of governmentally mandated projects or programs or an increase in federal or state income tax incurred after that date. The costs and expenses of the government program or project required in part II of this chapter shall not be recovered under this paragraph unless such costs and expenses are incurred in the absence of a bid and subject to carrier of last resort obligations as provided for in part II of this chapter. With respect to governmentally mandated projects and programs, such petition shall be acted upon no later than 90 days after the date of filing. A company subject to this section shall show the commission that the cost of a project or program is not recoverable either from the government mandating the project or program or from the beneficiaries of the project or program through user fees or other new revenue sources from the project or program, and to the extent that cost decreases resulting from the project or program are reflected as an offset to cost increases. A company subject to this section shall decrease its network access rates by amounts that reflect any federal or state income tax reduction. Nothing contained in this section shall allow any revisions in the rates, terms, and conditions for commercial mobile radio service access, which revisions are inconsistent with the requirements or methodologies of the Federal Communications Commission.

(4) A company subject to this section may choose to implement all or a portion of a rate increase allowed for network access service by subsections (1), (2), and (3). Notwithstanding subsections (1), (2), and (3), a company subject to this section may choose to decrease network service rates at any time, and decreased rates shall become effective upon 7 days' notice.

(5) Company-proposed changes to the terms and conditions for existing network access services in accordance with subsections (1), (2), (3), and (4) shall be presumed valid and become effective upon 15 days' notice. Company-proposed rate reductions shall become effective upon 7 days' notice. Rate increases made by the local exchange telecommunications company shall be presumed valid and become effective on the date specified in the tariff, but in no event earlier than 30 days after the filing of such tariff The commission shall have continuing regulatory oversight of local exchange telecommunications company-provided network access services for purposes of determining the correctness of any price increase resulting from the application of the inflation index and making any necessary adjustments, establishing reasonable service quality criteria, and assuring resolution of service complaints. No later than 30 days after the filing of such tariff, the commission may, with respect to determining the correctness of any price increase, vote, without hearing, the local exchange telecommunications company to hold subject to refund all revenues collected under the rate increase. Within 60 days after such order, the commission must make a determination either compelling a refund of all or part of such revenues or releasing them from such requirement.

(6) Any local exchange telecommunications company whose current intrastate switched access rates are higher than its interstate switched access rates in effect on December 31, 1994, shall reduce its intrastate switched access rates by 5 percent annually beginning October 1, 1996. Any such company shall be relieved of this requirement if it reduces such rates by a greater percentage by the relevant date or earlier, taking into account any reduction made pursuant to Florida Public Service Commission Order No. PSC 94-0172-FOF-TL. Upon reaching parity between intrastate and 1994 interstate switched access rates, no further reductions shall be required. Any telecommunications company whose intrastate switched access rate is reduced by this subsection shall decrease its customer long distance rates by the amount necessary to return the benefits of such reduction to its customers.

(7) Telecommunications company intrastate switched access and customer long distance rate reductions shall become effective on October 1 of each relevant year. Rate decreases proposed in tariff revisions filed by the telecommunications companies with the commission shall be presumed valid and become effective on October 1 of each relevant year.

(8) No later than 30 days after the filing of such tariff, the commission may, with respect to determining the correctness of any rate decrease, vote, without hearing, the telecommunications company to hold subject to refund all intrastate switched access or customer long distance rate revenues collected after the rate decrease. Within 60 days after such order, the commission must make a determination either compelling a refund of the appropriate part of such revenues or releasing all such revenues from such requirement.

(9) The commission shall have continuing regulatory oversight of intrastate switched access and customer long distance rates for purposes of determining the correctness of any rate decrease by a telecommunica-

tions company resulting from the application of this section and making any necessary adjustments to those rates, establishing reasonable service quality criteria, and assuring resolution of service complaints.

Section 17. Section 364.175, Florida Statutes, is created to read:

364.175 Access to records.—The commission shall have access to all telecommunications company records and to the records of a telecommunications company's affiliated companies, including its parent company, that are reasonably necessary for the disposition of any matter within the commission's jurisdiction. The commission may require a company to file records, reports, or other data in the form specified by the commission or may require a company to retain information for a designated period of time.

Section 18. Subsection (1) of section 364.183, Florida Statutes, is amended to read:

364.183 Access to company records.—

(1) *The commission shall have access to those records of a local exchange telecommunications company, its parent company, and its affiliated telecommunications companies which are providing telecommunications services within the state that are relevant and necessary for the disposition of pending matters within the commission's jurisdiction relating to the oversight of basic and non-basic services and local interconnection and network access services for the sole purpose of ensuring resolution of service complaints and ensuring that all providers are treated fairly in the marketplace. The commission may require a local exchange telecommunications company or an alternative local exchange telecommunications company to file records, reports, or other data directly relating to pending matters within the commission's jurisdiction in the form specified by the commission and may require such company to retain such information for a designated period of time.* ~~The commission shall have reasonable access to all company records, and to the records of the telecommunications company's affiliated companies, including its parent company, regarding transactions or cost allocations among the telecommunications company and such affiliated companies, and such records necessary to ensure that a telecommunications company's ratepayers do not subsidize the company's unregulated activities.~~ Upon request of the company or other person, any records received by the commission which are shown by the company or other person and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1).

Section 19. Section 364.24, Florida Statutes, is amended to read:

364.24 Penalty for making telephone message *or customer account information* known.—

(1) Except as otherwise deemed by law, any officer or person in the employ of any telecommunications company, or any person in charge of any office, exchange, or place where messages or communications are sent, received, or heard by telephone, who shall disclose or make known to any person other than the person to whom the telephone message or communication is directed, or his duly authorized agent, partner, clerk, or some member of his family, any part of the contents or substance of any message or communication sent, received, or heard by him, by telephone, by reason of the position he occupies or fills, without consent of the person sending or receiving such message or communication, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any officer or person in the employ of any telecommunications company shall not intentionally disclose customer account records except as authorized by the customer or as necessary for billing purposes, or required by subpoena, court order, other process of court, or as otherwise allowed by law. Any person who violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Nothing herein precludes disclosure of customers' names, addresses, or telephone numbers to the extent they are otherwise publicly available.

Section 20. Section 364.245, Florida Statutes, is created to read:

364.245 Discontinuation of telecommunications service used for unlawful purpose.—

(1) The Legislature finds that some persons use telecommunications services to violate state or federal law. The Legislature further finds that some persons use telecommunications services or technology, such as call forwarding and cellular radio transmissions, to avoid detection or arrest.

(2) A customer of a telecommunications company operating within the state may use telecommunications services only for lawful purposes.

(3) If a local, state, or federal law enforcement officer acting within the scope of the officer's duties obtains evidence that telecommunications services are being used or have been used by a customer or by the employee or agent of the customer to violate state or federal law, the officer may apply to the circuit court of the county in which the suspected violation of state or federal law occurred for an order requiring the telecommunications company to discontinue service to the customer of the services. The court shall hold a hearing on the application as soon as possible, but no sooner than 48 hours after notice of the application for discontinuation of service is delivered to the address at which the telecommunications services are furnished or to the address to which bills for telecommunications services are mailed, according to the telecommunications company records. Notice must also be given to the registered agent for the service of process upon the telecommunications company at least 48 hours prior to the hearing. If the court finds clear and convincing evidence that the telecommunications services are being used or have been used to violate state or federal law, the court shall order the telecommunications company to discontinue such service immediately.

(4) Telecommunications service discontinued under this section may be reinstated only by court order, and call forwarding or message referrals, whether recorded or live, may not be provided until reinstatement of service is ordered by the court.

(5) A telecommunications company shall be held harmless from liability to any person in complying with any court order issued under this section.

Section 21. Section 364.335, Florida Statutes, is amended to read:

364.335 Application for certificate.—

(1) Each applicant for a certificate shall:

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

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

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

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

(2) If the commission grants the requested certificate, any person who would be substantially affected by the requested certification may, within 21 days after the granting of such certificate, file a written objection requesting a proceeding pursuant to s. 120.57. The commission may, on its own motion, institute a proceeding under s. 120.57 to determine whether the grant of such certificate is in the public interest. The commission shall order such proceeding conducted in or near the territory applied for, if feasible. If any person requests a public hearing on the application, such hearing shall, if feasible, be held in or near the territory applied for, and the transcript of the public hearing and any material submitted at or prior to the hearing shall be considered part of the record of the application and any proceeding related to the application.

(3) The commission may grant a certificate, in whole or in part or with modifications in the public interest, but in no event granting authority greater than that requested in the application or amendments thereto and noticed under subsection (1); or it may deny a certificate. The commission may ~~not~~ grant *certificates* ~~a certificate~~ for ~~a~~ proposed telecommunications *companies* ~~company~~, or for the extension of an existing telecommunications company, *without regard to whether such companies* ~~which~~ will be in competition with or duplicate the local exchange services provided by any other telecommunications company ~~unless it first determines that the existing facilities are inadequate to meet the reasonable needs of the public and it first amends the certificate of such other telecommunications company to remove the basis for competition or duplication of services~~. The commission may *also*~~, however,~~ grant ~~such~~ a certifi-

cate for a proposed telecommunications company, or for the extension of an existing telecommunications company, which will be providing either competitive or duplicative pay telephone service pursuant to the provisions of s. 364.3375, or private line service by a certified alternative access vendor *pursuant to s. 364.337(6)*~~, without determining that existing facilities are inadequate to meet the reasonable needs of the public and without amending the certificate of another telecommunications company to remove the basis for competition or duplication of services. For the purposes of this section, "private line service" means any point-to-point or point-to-multipoint service dedicated to the exclusive use of an end-user for the transmission of any public telecommunications service~~. Pay telephone service shall include that telephone service using telephones that are capable of accepting payment by specie, paper money, or credit cards.

(4) Revocation, suspension, transfer, or amendment of a certificate shall be subject to the provisions of this section; except that, when the commission initiates the action, the commission shall furnish notice to the appropriate local government and to the Public Counsel.

Section 22. Section 364.336, Florida Statutes, is amended to read:

364.336 Regulatory assessment fees.—Notwithstanding any provisions of law to the contrary, each telecommunications company licensed or operating under this chapter, for any part of the preceding 6-month period, shall pay to the commission, within 30 days following the end of each 6-month period, a fee that may not exceed 0.25 percent annually of its gross operating revenues derived from intrastate business. Differences, if any, between the amount paid in any 6-month period and the amount actually determined by the commission to be due shall, upon motion by the commission, be immediately paid or refunded. Fees under this section may not be less than $50 annually. Such fees shall be deposited in accordance with s. 350.113. *The commission may by rule establish criteria for payment of the regulatory assessment fee on an annual basis rather than on a semiannual basis.*

Section 23. Section 364.337, Florida Statutes, is amended to read:

364.337 *Alternate local exchange telecommunications companies;* intrastate interexchange telecommunications services*; certification.*—

(1) Upon this act becoming a law, a party may file an application for a certificate as an alternative local exchange telecommunications company before January 1, 1996, and the commission shall conduct its review of the application and take all actions necessary to process the application. However, an application shall become effective no sooner than January 1, 1996. The commission shall grant a certificate of authority to provide alternative local exchange service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served. In no event may an alternative local exchange telecommunications company offer basic local telecommunications services within the territory served by a company subject to s. 364.052 prior to January 1, 2001, unless the small local exchange telecommunications company elects to be regulated under s. 364.051 or provides cable television programming services directly or as video dialtone applications authorized under 47 U.S.C. s. 214, except as provided for in compliance with part II of this chapter. It is the intent of the Legislature that the commission act expeditiously to grant certificates of authority under this section and that the grant of certificates not be affected by the application of any criteria other than that specifically enumerated in this subsection.

(2) Rules adopted by the commission governing the provision of alternative local exchange telecommunications service shall be consistent with s 364.01. The basic local telecommunications service provided by an alternative local exchange telecommunications company must include access to operator services, "911" services, and relay services for the hearing impaired. There shall be a flat-rate pricing option for basic local telecommunications services, and mandatory measured service for basic local telecommunications services shall not be imposed. A certificated alternative local exchange telecommunications company may petition the commission for a waiver of some or all of the requirements of this chapter, except ss. 364.16, 364.336, and subsections (1) and (5). The commission may grant such petition if determined to be in the public interest. In no event shall alternative local exchange telecommunications companies be subject to the requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, 364.18, and 364.3381.

(3) The commission shall grant a certificate of authority to provide intrastate interexchange telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served.

(4) Rules adopted by the commission governing the provision of intrastate interexchange telecommunications service shall be consistent with s. 364.01. A certificated intrastate interexchange telecommunications company may petition the commission for a waiver for some or all of the requirements of this chapter, except s 364 16, s. 364.335(3), or s. 364.337(5). The commission may grant such petition if determined to be in the public interest. In no event shall intrastate interexchange telecommunications companies be subject to the requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, 364.18, 364.183(1), and 364.3381.

(5) The commission shall have continuing regulatory oversight over the provision of basic local exchange telecommunications service provided by a certificated alternative local exchange telecommunications company or a certificated alternative access vendor for purposes of establishing reasonable service quality criteria, assuring resolution of service complaints, and ensuring the fair treatment of all telecommunications providers in the telecommunications marketplace.

~~(1) When the commission grants a certificate to a telecommunications company to provide intrastate interexchange telecommunications service, the commission, if it finds that such action is consistent with the public interest, may:~~

~~(a) Prescribe different requirements for the company than are otherwise prescribed for telecommunications companies; or~~

~~(b) Exempt the company from some or all of the requirements of this chapter and s. 350.113.~~

~~(2) In determining whether the actions authorized by subsection (1) are consistent with the public interest, the commission shall consider:~~

~~(a) The number of firms providing the service;~~

~~(b) The geographic availability of the service from other firms;~~

~~(c) The quality of service available from alternative suppliers;~~

~~(d) The effect on telecommunications service rates charged to customers of other companies; and~~

~~(e) Any other factors that the commission considers relevant to the public interest.~~

(6)~~(3)~~(a) *The Legislature* ~~If the commission~~ finds the provision of alternative access vendor services to be in the public interest, *and the commission* ~~it~~ may authorize the provision of such service. For the purposes of this section, *effective January 1, 1996,* "alternative access vendor services" means the provision of private line service between an entity and ~~its~~ facilities at another location, *whether owned by the entity or an unaffiliated entity* or ~~dedicated~~ access service between an end-user and an interexchange carrier by other than a local exchange telecommunications company~~, and are considered to be interexchange telecommunications services~~. *For purposes of this chapter, "private line service" means any dedicated point-to-point or point-to-multipoint service for the transmission of any public telecommunications service.*

(b) No person shall provide alternative access vendor services without first obtaining a certificate from the commission. *Any certificated alternative access vendor as of the date this act becomes a law wishing to provide alternative local exchange telecommunications service in addition to the services authorized in its certificate may do so, effective January 1, 1996, upon furnishing written notice to the commission.*

(7)~~(4)~~ Each amount paid by an interexchange telecommunications company or a pay telephone company to a telecommunications company providing local service for use of the local network shall be deducted from gross operating revenues for purposes of determining the amount of the regulatory fee assessed the interexchange telecommunications company pursuant to s. 350.113 or s. 364.336.

Section 24. Paragraph (e) is added to subsection (2) of section 364 3375, Florida Statutes, to read:

364.3375 Pay telephone service providers.—

(2) Each pay telephone station shall:

(e) Be eligible to subscribe to flat-rate, single-line business local exchange services.

Section 25. Section 364.502, Florida Statutes, is created to read:

364.502 Video programming; capacity for public use.—

(1) Each local exchange telecommunications company or alternative local exchange telecommunications company which provides video programming shall, prior to providing such programming, file with the commission a designation of reserve capacity for public, educational, or governmental use. The commission shall review the filed designation to determine whether such designation ensures that public education and public information programming are adequately available to the customers of such telecommunications company. The commission shall consider the following factors in determining whether the filed designation complies with the requirements of this chapter:

(a) Reservation and designation requirements provided by federal law, if any.

(b) The level of demand for such programming in a given service area.

(c) The barriers to providing such programming in the service area.

(d) The cost and availability of such programming in the service area.

(e) Other factors which the commission deems appropriate.

(2) Capacity pursuant to this subsection shall not be sold, resold, or otherwise transferred for money or other thing of value. The quality of capacity reserved pursuant to this subsection shall be equivalent to the best quality of available capacity of the local exchange telecommunications company which provides video programming in all respects.

Section 26. Section 364.3381, Florida Statutes, is amended to read:

364.3381 Cross-subsidization.—

(1) The price of a *non-basic* ~~competitive~~ telecommunications service provided by a local exchange telecommunications company shall not be below its cost by use of subsidization from rates paid by customers of *basic* ~~monopoly~~ services ~~subject to the jurisdiction of the commission~~.

(2) A local exchange telecommunications company which offers both *basic and non-basic* ~~monopoly and competitive~~ telecommunications services shall *establish prices for such services that* ~~segregate its intrastate investments and expenses in accordance with allocation methodologies as prescribed by the commission to~~ ensure that *non-basic* ~~competitive~~ telecommunications services are not subsidized by *basic* ~~monopoly~~ telecommunications services. *The cost standard for determining cross-subsidization is whether the total revenue from a non-basic service is greater than or equal to the total long-run incremental cost of the service. Total long-run incremental cost means service-specific volume and non-volume sensitive costs.*

(3) *The commission shall have continuing oversight jurisdiction over cross-subsidization, predatory pricing, or other similar anti-competitive behavior and may investigate, upon complaint or on its own motion, allegations of such practices.* ~~Except where doing so offsets the benefits accruing to ratepayers by virtue of such sharing, the commission shall ensure that no expenses associated with the allocation of costs between regulated and unregulated services or activities of any kind, or of auditing or otherwise supervising those allocations, are included in the regulated rates or charges of a telecommunications company.~~

Section 27. Section 364.339, Florida Statutes, is amended to read:

364.339 Shared tenant service; regulation by commission; *certification;* limitation as to designated carriers.—

(1) The commission shall have exclusive jurisdiction to authorize the provision of any shared tenant service which:

(a) Duplicates or competes with local service provided by an existing local exchange telecommunications company; and

(b) *Effective January 1, 1996,* is furnished through a common switching or billing arrangement to ~~commercial~~ tenants ~~within a single building~~ by an entity other than an existing local exchange telecommunications company.

(2) No person shall provide shared tenant service without first obtaining from the commission a certificate of public convenience and necessity to provide such service. The commission shall grant certificates to telecommunications companies upon showings that the applicants have sufficient technical, financial, and managerial capabilities to provide shared tenant services. The commission may require such service to be offered and priced differently to residential and commercial tenants if deemed to be in the public interest.

(3)~~(2)~~(a) Shared tenant services provided to government entities pursuant to this section are exempt from paragraph (1)(b), and the commission may exempt such entities from any certification requirements imposed by this chapter.

(b) As provided in subsection (3), the commission may authorize such service notwithstanding the provisions of s. 364.335. The commission may prescribe the type, extent, and conditions under which such service may be provided and may exempt such service, except appropriate certification, from commission regulation.

(4)~~(3)~~ In determining whether the actions authorized by *subsections* ~~subsection~~ (1) *and (2)* are consistent with the public interest, the commission shall consider the following:

(a) The number of firms providing the service.

(b) The availability of the service from other firms or the local exchange telecommunications company.

(c) The quality of service available from alternative suppliers.

(d) The effect on telecommunications service rates charged to customers of the local telecommunications company.

(e) The geographic extent of the service to be provided.

(f) Any other factors which the commission deems relevant.

(5)~~(4)~~ The offering of shared tenant service shall not interfere with or preclude a commercial tenant's right to obtain direct access to the lines and services of the serving local exchange telecommunications company or the right of the serving local exchange telecommunications company to serve the commercial tenant directly under the terms and conditions of the commission-approved tariffs.

Section 28. Section 364.385, Florida Statutes, is amended to read:

364.385 Saving clauses.—

(1) This act does not invalidate any certificate or cause to be unlawful any rate which has been previously approved and which is lawfully being charged and collected immediately prior to *July 1, 1995* ~~October 1, 1990~~. However, such rate may not be changed, and a certificate may not be modified, suspended, or revoked, on or after *July 1, 1995* ~~October 1, 1990~~, except in accordance with the provisions of this act.

(2) *All applications for extended area service, routes, or extended calling service pending before the commission on March 1, 1995, shall be governed by the law as it existed prior to July 1, 1995. Upon the approval of the application, the extended area service, routes, or extended calling service shall be considered basic services and shall be regulated as provided in s. 364.051 for a company that has elected price regulation.* Proceedings including judicial review pending on *July 1, 1995* ~~October 1, 1990~~, shall be governed by the law as it existed prior to *the date on which this section becomes a law* ~~October 1, 1990~~. *No new proceedings governed by the law as it existed prior to July 1, 1995, shall be initiated after July 1, 1995.* Any administrative adjudicatory proceeding which has not progressed to the stage of a hearing *by July 1, 1995,* may, with the consent of all parties and the commission, be conducted in accordance with the *law as it existed prior to July 1, 1996,* ~~provisions of this act~~.

(3) Florida Public Service Commission Order No. PSC 94-0172-FOF-TL shall remain in effect, and BellSouth Telecommunications, Inc., shall fully comply with that order unless modified by the Florida Public Service Commission pursuant to the terms of that order. The order may not be modified to extend beyond December 31, 1997, except that the Florida Public Service Commission shall retain jurisdiction and all parties shall retain their rights under the agreement after December 31, 1997, solely for the purpose of effectuating the provisions of the order applicable to periods prior to January 1, 1998. The depreciation rates approved by the Florida Public Service Commission and in effect as of December 31, 1994, shall be used to calculate the earnings available for sharing for periods prior to January 1, 1998.

Section 29. Section 364.386, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 364.386, F.S., for present text.)

364.386 Reports to the Legislature.—

(1) The commission shall submit to the President of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders of the Senate and House of Representatives, on December 1, 1996, and on an annual basis thereafter, a report on the status of competition in the telecommunications industry and a detailed exposition of the following:

(a) The overall impact of local exchange telecommunications competition on the continued availability of universal service.

(b) The ability of competitive providers to make functionally equivalent local exchange services available to both residential and business customers at competitive rates, terms, and conditions.

(c) The ability of consumers to obtain functionally equivalent services at comparable rates, terms, and conditions.

(d) The overall impact of price regulation on the maintenance of reasonably affordable and reliable high-quality telecommunications services.

(e) What additional services, if any, should be included in the definition of basic local telecommunications services, taking into account advances in technology and market demand.

(f) Any other information and recommendations which may be in the public interest.

(2) The Office of Public Counsel is also directed to submit a report on competition in the telecommunications industry and on how the price regulation provisions of s. 364.051 have benefitted the rate payers and consumers of this state and any other information and recommendations which may be in the public interest.

Section 30. Part II of chapter 364, Florida Statutes, consisting of sections 364.506, 364.507, 364.508, 364.509, 364.510, and 364.511, is created to read:

364.506 Short title.—This part may be cited as the "Education Facilities Infrastructure Improvement Act."

364.507 Legislative intent.—

(1) The Legislature finds that it is in the interest of the state to assure its citizens access to advanced telecommunications services since such access will complement the provision of educational and health care services, thus enhancing the health, safety, and welfare of Floridians. The Legislature further finds that the network should be available to residents of rural, suburban, and urban areas so that all citizens may benefit.

(2) It is the intent of the Legislature that all local exchange telecommunications companies, including those with less than 100,000 access lines in service which do not elect to be regulated under price regulation pursuant to s. 364.051, should be required to provide advanced telecommunications services to eligible facilities in the absence of a competitive bid to provide such services pursuant to s. 364.510(3). This obligation arises from the privileges granted such local exchange telecommunications companies under part I of this chapter.

(3) It is the intent of the Legislature to encourage competition among providers of telecommunications services to provide advanced telecommunications services, as such competition will accelerate the deployment of advanced telecommunications services for the improvement of public education and public health services in the state.

(4) It is the intent of the Legislature to encourage joint ventures between telecommunications companies, cable companies, and other providers where such joint ventures accelerate, improve, or otherwise assist eligible facilities in receiving advanced telecommunications services.

364.508 Definitions.—As used in this part:

(1) "Commission" means the Public Service Commission.

(2) "Committee" means the State Education Technology Committee.

(3) "Telecommunications company" means any entity certified under this chapter to provide telecommunications service.

(4) "Cable company" means a cable television company providing cable service as defined in 47 U.S.C. s. 522.

(5) "Advanced telecommunications services" are defined as network-based or wireless services that provide additional communications capabilities enabling the use of applications such as distance learning, video conferencing, data communications, and access to internet.

(6) "Plan" means the Education Facilities Infrastructure Improvement Plan, a document that includes a needs assessment report and identifies telecommunications companies', cable companies', and other providers' present and projected deployment of technologies necessary for delivery of advanced telecommunications services to eligible facilities who request such services.

(7) "Eligible facilities" means all approved campuses and instructional centers of all public universities, public community colleges, area technical centers, public elementary schools, middle schools, and high schools, including school administrative offices, public libraries, teaching hospitals, the research institute described in s. 240.512, and rural public hospitals as defined in s. 395.602. If no rural public hospital exists in a community, the public health clinic which is responsible for individuals before they can be transferred to a regional hospital shall be considered eligible.

364.509 State Education Technology Committee; creation; membership; duties.—

(1) The State Education Technology Committee is hereby created. The committee shall consist of:

(a) The Governor or his designee.

(b) The Commissioner of Education or his designee.

(c) The Chancellor of the State University System or his designee.

(d) The executive director of the State Community College System or his designee.

(e) The secretary of the Department of Management Services or his designee.

(f) The Public Counsel or his designee.

(g) A member of the Senate and a representative of the International Brotherhood of Electrical Workers who shall be appointed by the President of the Senate.

(h) A member of the House of Representatives and a representative of the Communications Workers of America who shall be appointed by the Speaker of the House of Representatives.

(i) Four members of the private sector representing the cable telecommunications industry, the local exchange telecommunications industry, and the interexchange industry, two of whom shall be appointed by the Florida Cable Telecommunications Association and two of whom shall be appointed by the Florida Telephone Association.

(j) Two members from the health care community to be appointed by the Governor, one member from a teaching hospital and the other member from a rural hospital.

(k) The State Librarian or his designee.

(2) The first meeting of the committee shall be called within 30 days after the effective date of this act, at which time a chairman shall be elected from the membership of the committee.

(3) By January 1, 1996, the committee shall assemble appropriate resources from its own technical staff to develop a needs assessment report which shall be included in the plan describing the overall advanced telecommunications services needs of education, libraries, and teaching and rural hospitals. The needs assessment report shall take into consideration any needs assessments recently conducted by any state agency or eligible facility. Such needs assessment report shall also consider interoperability of different technologies needed for delivery of advanced telecommunications services.

(4) The State Educational Technology Committee shall submit a plan to the Executive Office of the Governor, the Speaker of the House of Representatives, and the President of the Senate by March 1, 1996, describing what advanced telecommunications services shall be delivered to eligible facilities by January 1, 1999. The plan shall take into consideration the following:

(a) Advanced telecommunications services currently being provided by SUNCOM, the Department of Education, and the State University System.

(b) The telecommunications companies', cable companies', or any other providers' existing provision of advanced telecommunications services to eligible facilities.

(c) The deployment of advanced telecommunications services among rural, urban, and suburban areas.

(d) The eligible institutions requesting such advanced telecommunications services.

(e) The institutions currently served.

(5) The committee shall cease to exist once the requirements of subsection (4) have been accomplished.

364.510 Infrastructure investment.—

(1) Advanced telecommunications services shall be provided to eligible facilities in accordance with the provisions of this section.

(2) In order to be eligible under this act, an eligible facility, or a group of eligible facilities based on geographic proximity, shall submit a technology needs request to the Division of Communications of the Department of Management Services. The division shall review the technology needs request to determine if it conforms to the standards outlined in the State Education Technology Committee's plan. If the technology needs request does not conform to the plan, then the division shall return the request to the eligible facility or group for modifications. After modification of a technology needs request it can then be resubmitted by the eligible facility or a group of eligible facilities. A technology needs request shall be submitted to the division no later than July 1, 1997. Nothing in this section shall prevent the Department of Management Services from grouping eligible facilities technology requests when such grouping would result in the most efficient method to deliver advanced telecommunications services.

(3) Once a technology needs request or group request has been received and has been determined to meet the standards outlined in the plan, the Department of Management Services shall acquire advanced telecommunications services requested by an eligible facility or group of eligible facilities pursuant to chapter 287. The Department of Management Services shall establish specifications to acquire the advanced telecommunications infrastructure needed to provide advanced telecommunications services. The advanced telecommunications infrastructure used to provide such connections to the eligible facilities shall be provided at no cost in an amount not to exceed $20,000 per eligible facility. In those instances in which a competitive bid is not received, advanced telecommunications services to be provided over this communication infrastructure shall be priced below commercially available rates for comparable service and less than the statewide average of such services.

(4) Notwithstanding the requirements in subsection (3), in geographic areas where interconnection between entities is the most efficient method of providing advanced telecommunications services, the Department of Management Services may suggest, along with the commission, such interconnection arrangements.

(5) Any entity may submit a bid or proposal in response to the solicitation for services by the Department of Management Services. The Department of Management Services shall award a bid in conformity with chapter 287, and under no circumstances shall the bidder be required to install facilities until the eligible facility is ready to utilize the services. If no bids or proposals are received in response to a solicitation issued by the Department of Management Services, the Department of Management Services shall obtain the name and address from the commission of the carrier of last resort in the territory of the eligible facility and provide that carrier of last resort with a description of the advanced telecommunications services that must be provided. If no bids or proposals are submitted for the provision of advanced telecommunications services to an eligible facility, the telecommunications company serving as the carrier of last resort to such eligible facility shall provide the advanced telecommunications services.

(6) Advanced telecommunications services to be provided by the entity awarded the contract or, if no bid or proposal is received, the carrier of last resort shall be provided within 6 months or at such later date as the eligible facility may specify. In the event that a technology needs request is received by July 1, 1997, but is requested not to be completed until after January 1, 1999, the Department of Management Services shall then issue a solicitation closer to the time the advanced telecommunications services are requested. The entities providing advanced telecommunications services pursuant to this chapter shall abide by the same terms and conditions as those eligible facilities requesting such services by January 1, 1999.

(7) Advanced telecommunications services provided pursuant to this part shall not be sold, resold, or otherwise transferred to an ineligible facility.

(8) Nothing in this part shall have an effect on advanced telecommunications services in operation as of the date this part is enacted.

(9) Nothing in this part shall preclude the Department of Management Services from combining an eligible facility with any grouping of qualified subscribers as defined in chapter 282, to create the most cost-effective and efficient access to network services.

364.511 Penalties.—

(1) In the event that the provision of advanced telecommunications services to a requesting eligible facility pursuant to s. 364.510(4) is not performed by the entity awarded the contract or by a carrier of last resort or within the date specified in the solicitation, except in those instances in which acts of God may have prevented the bidder from completing the contract, the eligible facility or the Department of Management Services may petition the commission for an order enforcing the requirements. The commission shall act upon such petition within 60 days and, in the event the commission finds that the entity that has been awarded the contract or the carrier of last resort has not performed as specified in this part, the commission shall order the entities to perform as required in the contract or by this part. In the event the entity fails to comply with the commission's order within 60 days, the commission shall impose a fine on the bidding company or carrier of last resort of $25,000 per eligible facility specified in the contract. Any fines collected under this section shall be deposited in the General Revenue Fund to be allocated back to the specific requesting area where the eligible facility is located to implement advanced telecommunications services

Section 31. By January 1, 1996, the commission shall implement a consumer information program to inform subscribers of the possibility under the law of competitive providers of local exchange telecommunications services, their rights as customers of these alternative providers, the commission's regulatory authority over the alternative providers, and any other information the commission deems appropriate. The commission may, pursuant to this program, require all companies providing local exchange telecommunications services to provide such information in the form of a bill insert.

Section 32. A local government shall treat each telecommunications company in a nondiscriminatory manner when exercising its authority to grant franchises to a telecommunications company, to tax services provided by a telecommunications company, or to otherwise establish conditions or compensation for the use of rights-of-way or other public property by a telecommunications company.

Section 33. The Department of Labor and Employment Security shall provide assistance, pursuant to any applicable state or federal program within its jurisdiction, to any individual employed in Florida by a local exchange telecommunications company on June 30, 1995, who is displaced, dislocated, severed, or retired from employment as a result of the introduction of competition under this act. This assistance shall include maintaining a database of such workers to assist the industry in recruiting a trained workforce, if so requested by the worker. In addition, the Department of Labor and Employment Security shall coordinate with the Enterprise Florida Jobs and Education Partnership, the Department of Commerce, and the Department of Education to assist new, existing, or expanding telecommunications businesses in Florida to apply for training grants under the guidelines and criteria of the Quick-Response Training Program pursuant to s. 288.047, Florida Statutes.

Section 34. Sections 364.036 and 364.338, Florida Statutes, are hereby repealed.

Section 35. 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 36. This act shall take effect July 1, 1995.

And the title is amended as follows:

On page 1, line 2, through page 4, line 25, strike all said lines and insert: An act relating to local exchange telecommunications companies; amending s. 166.231, F.S.; providing for application of the municipal public service tax to certain sales of taxable telecommunications services; providing criteria; amending s. 203.01, F.S.; providing for application of the gross receipts tax for utility services to certain sales of taxable telecommunications services; providing criteria; amending s. 212.05, F.S.; providing for application of the sales and use tax to certain sales of taxable telecommunications services; providing criteria; amending s. 364.01, F.S.; providing legislative findings relating to powers of the Public Service Commission; providing additional commission jurisdiction; amending s. 364.02, F.S.; providing additional definitions; revising definitions; creating s. 364.025, F.S.; providing for universal telecommunications service; providing requirements; providing procedures for alternative local exchange telecommunications companies; amending s. 364.035, F.S.; deleting a provision for minimum filing requirements for local exchange telecommunications companies; creating s. 364.051, F.S.; providing for price regulation of basic local telecommunications service; providing requirements; providing procedures; providing for price regulation of non-basic services; providing requirements; creating s. 364.052, F.S.; providing for regulatory methods for small local exchange telecommunications companies; providing requirements; providing procedures; amending s. 364.057, F.S.; authorizing the commission to approve experimental services; amending s. 364.058, F.S.; authorizing the commission to conduct expedited meetings; amending s. 364.10, F.S.; authorizing telecommunications companies to provide a Lifeline Assistance Plan to certain subscribers; amending s. 364.16, F.S.; requiring interconnection of telecommunication services and facilities of local exchange telecommunications companies; prohibiting certain activities; providing requirements for portability of telephone numbers; creating s. 364.161, F.S.; requiring unbundling and offering for resale network features, functions, and capabilities of local exchange telecommunications companies; creating s. 364.162, F.S.; providing for negotiated prices for interconnection and for resale of certain services and facilities; requiring the commission to set rates; providing criteria; providing procedures; creating s. 364.163, F.S.; providing for setting of rates for network access services; providing for rate increases; providing procedures; providing for rate reduction; specifying criteria; providing for refund of certain revenues; providing the commission with continuous oversight; creating s. 364.175, F.S.; providing commission access to certain records; amending s. 364.183, F.S.; requiring commission access to certain records; amending s. 364.24, F.S.; providing a penalty for disclosing certain customer account information; creating s. 364.245, F.S.; providing for discontinuation of telecommunications service used for unlawful purposes; providing for reinstatement of such service; amending s. 364.335, F.S.; deleting certain requirements relating to application for a certificate; amending s. 364.336, F.S.; authorizing the commission to establish criteria for payment of regulatory assessment fees; amending s. 364.337, F.S.; providing for certification of alternative local exchange telecommunications companies and intrastate interexchange telecommunications services; providing for application; providing procedures; providing the commission with continuing regulatory oversight over provision of basic local exchange telecommunications service provided by certain companies for certain purposes; amending s. 364.3375, F.S.; providing for eligibility of pay telephone service stations to subscribe to certain services; creating s. 364.502, F.S.; providing for video programming; requiring designation of reserve capacity for public use; providing criteria; prohibiting resale or transfer of such capacity; amending s. 364.3381, F.S.; revising provisions relating to cross-subsidization; providing the cost standard for determining cross-subsidization; amending s. 364.339, F.S.; requiring a certificate to provide shared tenant service; amending s. 364.385, F.S.; revising saving clauses; requiring sharing of earnings with customers under certain circumstances; amending s. 364.386, F.S.; requiring the commission to submit annual reports to the Legislature; specifying contents of the reports; requiring the Public Counsel to submit a report; creating part II of chapter 364, F.S.; creating the "Educational Facilities Infrastructure Improvement Act"; providing legislative intent; providing definitions; creating the State Education Technology Committee; providing for membership; providing for meetings; requiring the committee to develop a needs assessment report; requiring the committee to submit a plan to the Legislature; specifying contents of the plan; requiring a progress report; requiring the Department of Management Services to administer the provision of advanced telecommunications and broadband services to certain public education facilities; providing criteria; providing for a discount for such services under certain circumstances; providing for funding; providing for infrastructure investment; requiring telecommunications companies and cable television companies to provide certain services; providing criteria; providing for preferrential rates for use of broadband services; requiring the commission to adopt rules; prohibiting sale, resale, or transfer of services which receive preferential rates; providing for the imposition of fines under certain circumstances; providing for deposit and disposition of such fines; repealing s. 364.036, F.S., relating to alternative regulatory methods for local exchange telecommunications companies; repealing s. 364.338, F.S., relating to competitive services provided by local exchange telecommunications companies; requiring the commission to implement a consumer information program for certain purposes; providing powers of the commission; requiring local governments to treat companies without discrimination; providing duties of the Department of Labor and Employment Security; providing severability; providing an effective date.

House Amendment 1 (with Title Amendment) to House Amendment 1—On page 1, strike all of lines 27-31 and insert:

3. The amounts identified as taxable in subparagraph 2. shall not be less than the statewide average tariff rates set forth by the local exchange telecommunications companies in the tariffs filed with the Public Service Commission on January 1, 1995, and on January 1 of each year thereafter for the equivalent services subject to this section. The Public Service Commission shall publish the statewide average tariff rates annually, beginning on January 1, 1996.

And on page 2, strike all of lines 18-22 and insert:

(c) The amounts identified as taxable in paragraph (b) shall not be less than the statewide average tariff rates set forth by the local exchange telecommunications companies in the tariffs filed with the Public Service Commission on January 1, 1995, and on January 1 of each of year thereafter for the equivalent services subject to the provisions of this section. The Public Service Commission shall publish the statewide average tariff rates annually, beginning on January 1, 1996.

And on page 2, between lines 22 and 23, insert:

Section 3. If the total amount of gross receipts tax collected by the state from telecommunications services pursuant to s. 203.01(1)(a) for the period July 1, 1995 to June 30, 1996 is less than the amount collected for the period July 1, 1994 to June 30, 1995, the department shall assess each person subject to such tax a prorata share of the shortfall. The shortfall shall be prorated based on the amount of tax paid by each company for the period July 1, 1995 to June 30, 1996 and the total amount of tax collected for the same period. By September 1, 1996, the department shall certify to each person the amount of additional tax owed and the tax shall be remitted to the state by October 1, 1996.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 63, line 14, before "amending" insert: providing for the payment by telecommunications companies of any shortfall in certain gross receipt tax collections;

House Amendment 2 to House Amendment 1—On page 6, line 28, strike "*a minimum of*" and insert: *appropriate*

And on page 6, line 30, before the period (.) insert: *, but nothing in this chapter shall limit the availability to any party of any remedy under state or federal antitrust laws*

And on page 7, line 13, after "*competition*" insert: *through flexible regulatory treatment*

And on page 7, line 31, after "*of*" insert: *unnecessary*

House Amendment 3 to House Amendment 1—On page 9, line 6, strike "*on*" and insert: *by the commission on or before*

House Amendment 4 to House Amendment 1—On page 13, strike all of lines 3-5 and insert: *recommendation shall be provided to the Governor, the President of the Senate, the Speaker of the House of Representatives and the minority leaders of the Senate and the House of Representatives no later than January 1, 1997. The recommendation shall address, at minimum,*

And on page 14, line 10, strike "*December*" and insert: *October*

House Amendment 5 to House Amendment 1—On page 18, strike all of lines 10-13 and insert: *and shall remain capped for 3 years.*

(c) There shall be a flat-rate pricing option for basic local telecommunications services, and mandatory measured service for basic local telecommunications services shall not be imposed.

House Amendment 6 to House Amendment 1—On page 19, strike all of lines 27-28 and insert: *non-basic service category shall not exceed six percent within a twelve-month period until there is another provider providing local telecommunications service in an exchange area at which time the price for any non-basic service category may be increased in an amount not to exceed twenty percent within a twelve-month period, and the rate shall be presumptively valid. However,*

And on page 20, line 14, before "nothing" insert: *There shall be a flat-rate pricing option for multi-line business local exchange service, and mandatory measured service for multi-line business local exchange service shall not be imposed.*

House Amendment 8 to House Amendment 1—On page 21, line 24, after the period (.) insert: *After July 1, 1996, a company subject to this section, electing to be regulated pursuant to s. 364.051, will have any overearnings attributable to a period prior to the date on which the company makes the election subject to refund or other disposition by the commission.*

And on page 22, strike all of lines 6-15 and insert:

(a) By July 1, 1996, the commission shall establish, by rule, ranges of basic factors for lives and salvage values to be used in developing depreciation rates for companies subject to this section. Companies shall have the option of using basic factors within the established ranges or of filing depreciation studies.

And on page 22, strike all of lines 22-23 and insert: *that are cost justified and are in the public interest so that universal service may be promoted. Upon petition filed*

House Amendment 9 to House Amendment 1—On page 28, line 14, after the period (.) insert: *The parties shall negotiate the terms, conditions, and prices of any feasible unbundling request. If the parties cannot reach a satisfactory resolution within 60 days, either party may petition the commission to arbitrate the dispute and the commission shall make a determination within 120 days.*

House Amendment 10 to House Amendment 1—On page 29, strike all of lines 3 and 4 and insert: *local exchange telecommunications company is permitted to provide inter-LATA services and video programming, but in no event before July 1, 1997. In no*

House Amendment 11 to House Amendment 1—On page 32, strike all of lines 20-22 and insert:

(2) After the termination of the caps imposed on rates by subsection (1) and after a local exchange telecommunications company's intrastate switched access rates reach parity with its interstate switched access rates, a company subject to this

House Amendment 12 (with Title Amendment) to House Amendment 1—On page 36, line 10, through page 37, line 21, strike all of said lines and insert:

Section 17. Subsection (1) of section 364.183, Florida Statutes, is amended to read:

364.183 Access to company records.—

(1) The commission shall have access to all records of a telecommunications company that are reasonably necessary for the disposition of matters within the commission's jurisdiction. The commission shall also have access to those records of a local exchange telecommunications company's affiliated companies, including its parent company, that are reasonably necessary for the disposition of any matter concerning an affiliated transaction or a claim of anti-competitive behavior including claims of cross-subsidization and predatory pricing. The commission may require a telecommunications company to file records, reports or other data directly related to matters within the commission's jurisdiction in the form specified by the commission and may require such company to retain such information for a designated period of time. ~~The commission shall have reasonable access to all company records, and to the records of the telecommunications company's affiliated companies, including its parent company, regarding transactions or cost allocations among the telecommunications company and such affiliated companies, and such records necessary to ensure that a telecommunications company's ratepayers do not subsidize the company's unregulated activities.~~ Upon request of the company or other person, any records received by the commission which are *claimed* ~~shown~~ by the company or other person ~~and found by the commission~~ to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1) *and s. 24(a), Art. I of the State Constitution.*

(Renumber subsequent sections.)

And the title is amended as follows:

On page 64, lines 22-24, strike "creating s. 364.175, F.S.; providing commission access to certain records;"

House Amendment 13 to House Amendment 1—On page 52, line 2, strike "*July*" and insert: *January*

House Amendment 14 to House Amendment 1—On page 62, strike all of lines 1 and 2 and insert: *telecommunications company or to otherwise establish*

House Amendment 15 to House Amendment 1—On page 48, strike line 29 and insert: *revenue from a non-basic service is less than*

House Amendment 16 to House Amendment 1—On page 21, strike line 1 and insert: *from a non-basic service is less than the total*

House Amendment 18 to House Amendment 1—On page 20, strike all of lines 5-14 and insert:

2. Telecommunications services provided under contract service arrangements to the SUNCOM Network, as defined in chapter 282,

shall be capped at the rates in effect on July 1, 1995, and such rates shall not be increased prior to January 1, 1999; provided, however, that a petition to increase such rates may be filed pursuant to subsection (5) of this section utilizing the standards set forth therein. Nothing contained in this section shall prevent the

House Amendment 20 (with Title Amendment) to House Amendment 1—On page 53, between lines 22 and 23, insert:

Section 30. Section 364.503, Florida Statutes, is created to read:

364.503 Merger or acquisition.—

(1) Before any local exchange telecommunications company merges with or acquires an ownership interest of greater than five percent in a cable television company in the certificated local exchange in which the local exchange telecommunications company provides basic local telecommunications services within this state, the local exchange telecommunications company shall give the Florida Public Service Commission and the Department of Legal Affairs of the Office of the Attorney General sixty days notice of the proposed closing of the merger or acquisition.

(2) Before any cable television company providing cable service as defined in 47 U.S.C. 522 merges with or acquires an ownership interest of greater than five percent in a local exchange telecommunications company in an area serviced by the cable television company within this state, the cable television company shall give the Florida Public Service Commission and the Department of Legal Affairs of the Office of the Attorney General sixty days notice of the proposed closing of the merger or acquisition.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 65, line 23, before "creating" insert: creating s. 364.503, F.S.; providing for notice of mergers and acquisitions between local exchange telecommunications companies and cable companies;

House Amendment 21 to House Amendment 1—On page 23, line 31, insert:

(6) Notwithstanding any other provisions of this act, no local exchange telecommunications company subject to this section will be required to resell any tariffed, flat-rated, switched residential or business services while the price caps for either basic local telecommunications services or non-basic services remain in place.

House Amendment 25 to House Amendment 1—On page 18, line 5, through page 19, line 13, strike all of said lines and insert: *1, 1999. However, the basic local telecommunications service rates of a*

local exchange telecommunications company with more than three million basic local telecommunications service access lines in service on July 1, 1995, shall not be increased prior to January 1, 2001.

b) Upon the date of filing its election with the commission, the rates for basic local telecommunications service of a company that elects to become subject to this section shall be capped at the rates in effect on that date and shall remain capped as stated in paragraph (a).

(c) There shall be a flat-rate pricing option for basic local telecommunications services, and mandatory measured service for basic local telecommunications services shall not be imposed.

(3)(a) By December 1, 1997, the commission shall report and recommend on an exchange by exchange basis to the Legislature as to whether there is a need to extend the caps provided for in paragraphs (a) and (b) of subsection (2) for basic local telecommunications service prices, or whether there is some other means, excluding rate of return regulation, to ensure reasonable and affordable rates for basic local telecommunications service.

(b) In making the determination as to whether price caps are needed to ensure reasonable and affordable rates for basic local telecommunications service provided by a local exchange telecommunications company with less than 3 million basic local telecommunications service access lines in service on July 1, 1995, the commission shall consider whether the level of competition in the area justifies the elimination of price caps.

(c) The Legislature shall review the commission's report submitted pursuant to subsection (3)(a) and determine whether there is a continuing need for basic local telecommunications service prices to remain capped. Unless the Legislature acts to the contrary, the caps shall remain in place in any exchange in which the Legislature determines that the level of competition does not justify the elimination of price caps for an additional two years or until the commission during that two year period determines that the level of competition in the exchange justifies the elimination of price caps.

(4) In the event that it is determined that the level of competition justifies the elimination of price caps in an exchange served by a local exchange telecommunications company with less than 3 million basic local telecommunications service access lines in service, or at the end of five years for any local exchange telecommunications company, the local exchange telecommunications company may thereafter on thirty days' notice adjust its basic service prices once in any twelve month period in an amount not to exceed the change in inflation less 1 percent. Inflation shall be measured by the changes in the Gross Domestic Product Fixed 1987 Weights Price Index, or successor fixed weight price index, published in the Survey of Current Business or a publication, by the United States Department of Commerce. In the event any local exchange telecommunications company, after January 1, 2001, believes that the level of competition justifies the elimination of any form of price regulation the company may petition the Legislature.

(5) Notwithstanding the provisions of subsection (2), any local exchange telecommunications company that believes circumstances have changed substantially to justify any increase in the rates for basic local telecommunications services may petition the commission for a rate increase, but the commission shall grant such petition only after an opportunity for a hearing and a compelling showing of changed circumstances. The costs and expenses of any government

House Amendment 26 (with Title Amendment) to House Amendment 1—On page 2, line 1, insert:

4. If the total amount of municipal utility tax collected by a municipality or charter county from telecommunication services pursuant to s. 166.231(9) for the period of July 1, 1995 to June 30, 1996 is less than the amount collected for the period July 1, 1994 to June 30, 1995, the municipality or charter county shall assess each company that remits such tax a prorata share of the shortfall. The shortfall shall be prorated based on the amount of tax remitted by each company for the period July 1, 1995 to June 30, 1996 and the total amount of tax remitted for the same period. By September 1, 1996, the municipality or charter county shall certify to each company the amount of additional tax owed and the tax shall be remitted to the municipality or charter county by October 1, 1996. Provided, however, that this assessment may only be imposed if, in addition to the conditions above, a municipality or charter county has levied the applicable maximum tax rate allowed under this paragraph during the period July 1, 1995, and June 30, 1996 and has not switched between the two options allowed under subparagraphs 1. or 2. during the period July 1, 1995, and June 30, 1996.

And the title is amended as follows:

On page 63, line 11, before "amending" insert: providing for the payment by telecommunications companies of any shortfall in certain municipal utility tax collections;

House Amendment 27 (with Title Amendment) to House Amendment 1—On page 53, strike line 25 and insert: 364.510, 364.511, 364.512, 364.513, 364 514, and 364.515, is created to read:

And on page 54, strike all of lines 29 and 30 and insert:

(2) "Network" means the Florida Distance Learning Network.

And on page 55, line 28, through page 58, line 4, strike all said lines and insert:

364.509 The Florida Distance Learning Network; creation; membership; organization; meetings.—

(1) It is the intent of the Legislature to establish a coordinated system for cost-efficient advanced telecommunications services and distance education to:

(a) Increase student access to education.

(b) Maximize the use of advanced telecommunications services and their application to provide affordable distance education.

(c) Promote interagency cooperation and promote partnerships.

(d) Secure any available federal or private funds and other resources in support of advanced telecommunications services and distance education.

(e) Coordinate all advanced telecommunications services and distance education resources to maximize return on investment with the goal of creating a financially independent, self-supporting, statewide resource for advanced telecommunications services and distance education.

(2) The Florida Distance Learning Network is hereby created for all the purposes created by the provisions of this chapter or laws amendatory hereof.

(3) The Florida Distance Learning Network is established with the necessary powers to exercise responsibility for statewide leadership in coordinating, enhancing, and serving as a resource center for advanced telecommunications services and distance learning in all public education delivery systems. The Florida Distance Learning Network shall be governed by a board of directors which shall consist of the following members:

(a) The Commissioner of Education or the commissioner's designee.

(b) The Chancellor of the State University System or the chancellor's designee.

(c) The executive director of the State Community College System or the executive director's designee.

(d) The Secretary of Management Services or the secretary's designee, who shall represent the interests of all state agencies.

(e) The President of the Independent Colleges and universities of Florida or the President's designee.

(f) The Public Counsel or his designee.

(g) A member of the Senate and a representative of the International Brotherhood of Electrical Workers who shall be appointed by the President of the Senate and serve at the pleasure of the President.

(h) A member of the House of Representatives and a representative of the Communications Workers of America who shall be appointed by the Speaker of the House of Representatives and serve at the pleasure of the Speaker.

(i) Four members of the private sector representing the cable telecommunications industry, the local exchange telecommunications industry, and the interexchange industry, two of whom shall be appointed by the Florida Cable Telecommunications Association and two of whom shall be appointed by the Florida Telephone Association.

(j) Two members from the health care community to be appointed by the Governor, one member from a teaching hospital and the other member from a rural hospital.

(k) The State Librarian or his designee.

(4)(a) The Commissioner of Education or the commissioner's designee shall serve as the initial chairperson of the board of directors to serve a term of 4 years. Thereafter, the board of directors shall biennially elect the chairperson from its membership. The board of directors shall designate a secretary-treasurer, who need not be a member of the board of directors. The secretary-treasurer shall keep a record of the proceedings of the board of directors and shall be the custodian of all books, documents, and papers filed with the board of directors, and the minutes of the board of directors.

(b) The board of directors shall meet within 30 days after the effective date of this act and shall continue to meet at least 4 times each year, upon the call of the chairperson, or at the request of a majority of the membership. The board of directors shall take official action only by consensus.

(c) Members of the board of directors shall serve without compensation, but may be reimbursed for per diem and travel expenses.

364.510 Duties of the Board of Directors of The Florida Distance Learning Network.—The duties of the Board of Directors of The Florida Distance Learning Network include, but are not limited to:

(1) Creating and facilitating the implementation of a statewide coordinated system and resource system for cost-efficient advanced telecommunications services and distance education which will increase overall student access to education.

(2) Coordinating the use of existing resources, including, but not limited to, the state's satellite transponder on Telestar 401 (the education satellite), the Sunstar Network, the SUNCOM Network, the Florida Information Resource Network (FIRN), Department of Management Services, Department of Corrections and the Department of Health and Rehabilitative Services' satellite communication facilities to support a statewide advanced telecommunications services and distance learning network.

(3) Promoting interagency activities that will provide increased access to advanced telecommunication services and to distance education.

(4) Assisting in the coordination of the utilization of the production and uplink capabilities available through Florida's public television stations, eligible facilities, independent colleges and universities, private firms, and others as may be needed.

(5) Seeking the assistance and cooperation of Florida's cable television providers in the implementation of the statewide advanced telecommunications services and distance learning network.

(6) Seeking the assistance and cooperation of Florida's telecommunications carriers to provide affordable student access to advanced telecommunications services and to distance learning.

(7) Brokering and coordinating partnerships for development, acquisition, use, and distribution of distance learning.

(8) By January 1, 1996, the Board of Directors shall assemble appropriate resources from its own technical staff to develop a needs assessment report which shall be included in the plan describing the overall advanced telecommunications services needs of education, libraries, and teaching and rural hospitals. The needs assessment report shall take into consideration any needs assessment recently conducted by any state agency or eligible facility. Such needs assessment report shall also consider interoperability of different technologies needed for delivery of advanced telecommunications services.

(9) Developing and maintaining a plan for using technology to improve the delivery of and access to education. The plan shall be developed by March 1, 1996, and be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The plan shall describe what advance telecommunication services shall be delivered, address the needs of all educational and health care delivery systems, and shall include the following:

(a) A component on advanced telecommunications services and on distance learning in which education and health care programs, reports of programs, and accountability data are currently delivered to individuals located in diverse settings, including, but not limited to, eligible facilities, state agencies, community facilities, businesses, and homes. This component must consider existing public and private networks and communications systems and their potential in delivering advanced telecommunications services and distance learning applications.

(b) A component on existing rules and statutes related to the use of technology, including recommendations for consolidation and any modifications necessary to provide a statewide policy framework for using technology and telecommunications in education and health care.

(c) A statewide inventory of state-owned telecommunications receiving and transmitting equipment that could be used to assist with the distance learning network.

364.511 Powers of the Board of Directors of The Florida Distance Learning Network.—

(1) In order to enable it to carry out the purposes of ss. 364.506-364.514, the Board of Directors of The Florida Distance Learning Network has the power of a body corporate and shall have the power to:

(a) Secure and administer funding for programs and activities of The Florida Distance Learning Network, from federal, state, local, and private sources and from fees derived from services and materials. The board of directors shall also have the power to solicit, receive, hold, invest, and administer any grant, payment, or gift of funds or property and make expenditures consistent with the powers set forth in ss. 364.506-364.514.

(b) Make and enter into contracts and other instruments necessary or convenient for the exercise of its powers and functions.

(c) Sue and be sued, and appear and defend in all actions and proceedings, in its corporate name to the same extent as a natural person.

(d) Adopt, use, and alter a common corporate seal.

(e) Elect or appoint such officers and agents as its affairs require and allow them reasonable compensation.

(f) Adopt, amend, and repeal bylaws, not inconsistent with ss. 364.506-364.514, for the administration of the affairs of The Florida Distance Learning Network, and the exercise of its corporate powers.

(g) In formal agreement with distance learning providers, acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses and other rights or interests thereunder or therein.

(h) Do all acts and things necessary or convenient to carry out the powers expressly granted in ss. 364.506-364.514.

(i) In conjunction with distance learning providers, recommend to the Legislature policy regarding distance learning program funding and the protection of intellectual property rights.

(j) Coordinate a marketing program statewide, nationally, and internationally, as deemed appropriate.

(k) The Department of Management Services shall manage the state's satellite transponder resources and enter into lease agreements to maximize the use of available transponder time. All revenue realized through the leasing of available transponder time shall be recycled to support the Florida Distance Learning Network.

(l) Promote the development of multimedia courses and educational programs to be delivered through distance learning.

(m) Provide incentives for development of multimedia courses and programs to be delivered through distance learning.

(2) Under no circumstances may the credit of the state be pledged on behalf of The Florida Distance Learning Network.

(3) Nothing in ss. 364.506-364.514 shall be construed to abrogate, supersede, alter, or amend the powers and duties of any state agency, district school boards, community college boards of trustees, the State Board of Community Colleges, or the Board of Regents.

364.512 Board of Directors of The Florida Distance Learning Network; executive director.—The executive director of the Board of Directors of The Florida Distance Learning Network, who may also be desig-

nated as secretary-treasurer, shall be appointed by the Commissioner of Education. The executive director is the chief administrative and operational officer of the board of directors and shall direct and supervise the administrative affairs of the board of directors. The executive director:

(1) May contract with or employ legal and technical experts and such other employees, both permanent and temporary, as authorized by the board of directors.

(2) Shall attend all meetings of the board of directors.

(3) Shall cause copies to be made of all minutes and other records and documents of the board of directors and shall certify that such copies are true copies. All persons dealing with the board of directors may rely upon such certifications.

(4) Shall perform other duties as assigned by the board of directors.

364.513 Annual report of The Florida Distance Learning Network; audits.—

(1) Prior to December 1 of each year, The Florida Distance Learning Network, shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a complete and detailed report setting forth:

(a) Its operations and accomplishments during the fiscal year.

(b) Its marketing and operational plan, including recommendations on methods for implementing and funding distance learning initiatives.

(c) Its assets and liabilities at the end of its most recent fiscal year.

(d) A copy of an annual financial and compliance audit of its accounts and records conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General.

(2) The Auditor General may, pursuant to his or her own authority or at the direction of the Joint Legislative Auditing Committee, conduct an audit of The Florida Distance Learning Network.

364.514 Educational Technology Grant Program.—

(1) The Educational Technology Grant Program is created to support the development of and provide incentives for technologically delivered educational courses and programs.

(2)(a) The Florida Distance Learning Network shall annually award grants to school districts, area technical centers, community colleges, state universities, and independent institutions eligible to participate in state student assistance programs established in part IV of chapter 240. The board of directors of the corporation shall give priority to cooperative proposals submitted by two or more institutions or delivery systems. The proposals shall include:

1. Information which describes the educational significance of the program or service in addressing state educational priorities.

2. The target population for the program.

3. The program content to be transmitted.

4. The support services to be provided.

5. Provisions to use at least 20 percent of any funds awarded for training both faculty and student learners in the use and application of the products developed.

(b) Programs and courses developed through the grant program shall be marketed statewide and nationwide with a portion of any profits from the sale or use of such programs retained by the developing institutions or systems and a portion reinvested in the grant program for further program development. The distribution of any revenues received shall be determined by formal agreement between the board of directors and the developing institution.

(c) The board of directors shall identify state educational priorities and issue a request for proposals by June 1 in every year in which funds are available for grants. The board shall ensure the quality of the programs and courses produced through the grants and produce an annual status report by March 1 describing the projects funded and accounting for any proceeds.

364.515 Infrastructure investment.—

(1) Notwithstanding ss. 364.509-364-514, advanced telecommunications services shall be provided to eligible facilities in accordance with the provisions of this section.

And on page 60, strike all of lines 27-30 and insert:

364.516 Penalties.—

(1) In the event that the provision of advanced telecommunications services to a requesting eligible facility pursuant to s. 364.515(5) or (6) is not performed by the entity

And the title is amended as follows:

On page 65, strike all of lines 26-29 and insert: definitions; establishing The Florida Distance Learning Network; providing for board of directors' membership; providing for organization; providing for meetings; establishing duties of the board of directors; establishing the powers of the board of directors; providing for the appointment of an executive director; providing powers and duties; providing for an annual report and audits; establishing the Educational Technology Grant Program; providing awards; requiring an annual report; requiring the network to develop a needs assessment report; requiring the network to submit a plan to the Legislature;

House Amendment 2 (with Title Amendment)—On page 44, between lines 23 and 24, insert:

Section 32. Effective October 1, 1995, section 817.4821, Florida Statutes, is created to read:

817.4821 Cellular telephone counterfeiting offenses.—

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

(a) "Possess" means to have physical possession or otherwise to exercise dominion or control over tangible property.

(b) "Intercept" means to electronically capture, record, reveal, or otherwise access, the signals emitted or received during the operation of a cellular telephone without the consent of the sender or receiver thereof, by means of any instrument, device, or equipment.

(c) "Electronic serial number" means the unique numerical algorithm that is programmed into the microchip of each cellular telephone by the manufacturer and is vital to the telephone's successful operation and billing.

(d) "Mobile identification number" means the cellular telephone number assigned to the cellular telephone by the cellular telephone carrier.

(e) "Cellular telephone" means a communication device containing a unique electronic serial number that is programmed into its computer chip by its manufacturer and whose operation is dependent on the transmission of that electronic serial number along with a mobile identification number, which is assigned by the cellular telephone carrier, in the form of radio signals through cell sites and mobile switching stations.

(f) "Cloned cellular telephone" or "counterfeit cellular telephone" means a cellular telephone whose electronic serial number has been altered from the electronic serial number that was programmed in the phone by the manufacturer.

(g) "Cloning paraphernalia" means materials that, when possessed in combination, are necessary and capable of the creation of a cloned cellular telephone. These materials include scanners to intercept the electronic serial number and mobile identification number, cellular telephones, cables, EPROM chips, EPROM burners, software for programming the cloned cellular telephone's microchip with a false electronic serial number and mobile identification number combination, a computer containing such software, and lists of electronic serial number and mobile identification number combinations.

(2) A person who knowingly and unlawfully possesses a cloned cellular telephone commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who knowingly and unlawfully possesses an instrument capable of intercepting electronic serial number and mobile identification number combinations under circumstances evidencing an intent to clone a cellular telephone commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) A person who knowingly and unlawfully sells a cloned cellular telephone commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Nothing herein shall make unlawful the possession or use of cloning paraphernalia, a cloned cellular telephone, or any intercept by a law enforcement officer or persons acting under the direction of a law enforcement officer in the course of a criminal investigation.

(Renumber subsequent section.)

And the title is amended as follows:

On page 4, line 27, after the first semicolon (;) insert: creating s. 817.4821, F.S.; providing definitions; prohibiting, and providing a penalty for, knowing, unlawful possession of a "cloned cellular telephone," as defined; prohibiting, and providing a penalty for, knowing, unlawful possession of an instrument capable of intercepting "electronic serial number" and "mobile identification number" combinations, as defined; prohibiting, and providing a penalty for, knowing, unlawful sale of a cloned cellular telephone; providing an exemption for the possession or use of cloning paraphernalia, a cloned cellular telephone or any intercept in a law enforcement investigation;

On motions by Senator McKay, the Senate concurred in the House amendments.

CS for SB 1554 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 1632 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1632—A bill to be entitled An act relating to the confidentiality of certain research records of state universities; reenacting and amending s. 240.539(7), F.S., which provides an exemption from public records requirements for such records; saving the exemption from repeal; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 11, strike everything after the enacting clause and insert:

Section 1. Notwithstanding the October 1, 1995. repeal specified in section 119.14(3)(a), Florida Statutes, subsection (7) of section 240.539, Florida Statutes, is reenacted, renumbered as section 288.9520, Florida Statutes, and amended to read:

288.9520 Public records exemption.—

~~(7)~~ Materials that relate to methods of manufacture or production, potential trade secrets, potentially patentable material, actual trade secrets, business transactions, *financial and* ~~or~~ proprietary information, *and agreements or proposals to receive funding* that *are* ~~is~~ received, generated, ascertained, or discovered *by the Enterprise Florida Innovation Partnership, including its affiliates or subsidiaries and partnership participants, such as private enterprises, educational institutions, and other organizations, are* ~~during the course of research funded in whole or in part pursuant to this section shall be~~ confidential and exempt from the provisions of s. 119.07(1) *and s. 24(a), Art. I of the State Constitution,* except that a recipient of *partnership research* ~~such~~ funds shall make available, upon request, the title and description of the research project, the name of the researcher, and the amount and source of funding provided for the project. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 2. *The Legislature finds that it is a public necessity that materials that relate to methods of manufacture or production, potential trade secrets, potentially patentable material, actual trade secrets, business transactions, financial and proprietary information, and agreements or proposals be protected from public disclosure not only when received by the Enterprise Florida Innovation Partnership, and the universities and private entities participating in partnership funded research pursuant to the partnership's advanced technological research program, but also when received by the Enterprise Florida Innovation Partnership and its affiliates or subsidiaries pursuant to the performance of any partnership programs. Technology commercialization and manufacturing programs must utilize materials that relate to methods of manufacture or production, potential trade secrets, potentially patentable material, actual trade secrets, business transactions, financial and proprietary information, and agreements or proposals to be effective. If competitors were privy to such information, they could take advantage of that information to the financial detriment of the company submitting the information or proposal, which would chill participation in Enterprise Florida Innovation Partnership programs and impede the effectiveness of those programs.*

Section 3. This act shall take effect October 1, 1995.

And the title is amended as follows:

On page 1, line 2, strike everything before the enacting clause and insert: An act relating to confidentiality of information under the Enterprise Florida Innovation Partnership program; amending and renumbering s. 240.539(7), F.S., which provides an exemption from public records requirements for specified information received in connection with advanced technology research under the program; saving such exemption from repeal; revising the information which is exempt; providing an exemption for all such information received by the partnership and its affiliates; providing for disclosure of certain information; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

On motion by Senator Kirkpatrick, the Senate concurred in the House amendment.

SB 1632 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 1664 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1664—A bill to be entitled An act relating to public records and open meetings; amending s. 627.351, F.S.; applying public records and open meetings requirements to the Residential Property and Casualty Joint Underwriting Association, providing exemptions from such requirements; providing for future review and repeal; providing legislative findings; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 12, strike everything after the enacting clause and insert:

Section 1. Paragraph (k) is added to subsection (6) of section 627.351, Florida Statutes, 1994 Supplement, to read:

627.351 Insurance risk apportionment plans.—

(6) RESIDENTIAL PROPERTY AND CASUALTY JOINT UNDERWRITING ASSOCIATION; CONFIDENTIALITY PROVISIONS.—

(k)1. The following records of the Residential Property and Casualty Joint Underwriting Association are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

a. Underwriting files, except that a policy holder or an applicant shall have access to his or her own underwriting files.

b. Claims files, until termination of all litigation and settlement of all claims arising out of the same incident, although portions of the claims files may remain exempt, as otherwise provided by law. Confidential and exempt claims file records may be released to other governmental agencies upon written request and demonstration of need; such records held by the receiving agency remain confidential and exempt as provided for herein.

c. Records obtained or generated by an internal auditor pursuant to a routine audit, until the audit is completed, or if the audit is conducted as part of an investigation, until the investigation is closed or ceases to be active. An investigation is considered "active" while the investigation is being conducted with a reasonable, good-faith belief that it could lead to the filing of administrative, civil, or criminal proceedings.

d. Matters reasonably encompassed in privileged attorney-client communications.

e. Proprietary information licensed to the association under contract and the contract provides for the confidentiality of such proprietary information.

f. All information relating to the medical condition or medical status of an association employee which is not relevant to the employee's capacity to perform his or her duties, except as otherwise provided in this paragraph. Information which is exempt shall include, but is not limited to, information relating to workers' compensation, insurance benefits, and retirement or disability benefits.

g. Upon an employee's entrance into the employee assistance program, a program to assist any employee who has a behavioral or medical disorder, substance abuse problem, or emotional difficulty which affects the employee's job performance, all records relative to that participation shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except as otherwise provided in s. 112.0455(11).

h. Information relating to negotiations for financing, reinsurance, depopulation, or contractual services, until the conclusion of the negotiations.

i. Minutes of closed meetings regarding underwriting files, and minutes of closed meetings regarding an open claims file until termination of all litigation and settlement of all claims with regard to that claim, except that information otherwise confidential or exempt by law will be redacted.

When an authorized insurer is considering underwriting a risk insured by the association, relevant underwriting files and confidential claims files may be released to the insurer provided the insurer agrees in writing, notarized and under oath, to maintain the confidentiality of such files. When a file is transferred to an insurer that file is no longer a public record because it is not held by an agency subject to the provisions of the public records law. Underwriting files and confidential claims files may also be released to staff of and the board of governors of the market assistance plan established pursuant to s. 627.3515, who must retain the confidentiality of such files, except such files may be released to authorized insurers that are considering assuming the risks to which the files apply, provided the insurer agrees in writing, notarized and under oath, to maintain the confidentiality of such files. Finally, the association or the board or staff of the market assistance plan may make the following information obtained from underwriting files and confidential claims files available to licensed general lines insurance agents: name, address, and telephone number of the residential property owner or insured; location of the risk; rating information; loss history; and policy type. The receiving licensed general lines insurance agent must retain the confidentiality of the information received.

The exemptions created by this subparagraph are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

2. Portions of meetings of the Residential Property and Casualty Joint Underwriting Association are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution wherein confidential underwriting files or confidential open claims files are discussed. All portions of association meetings which are closed to the public shall be recorded by a court reporter. The court reporter shall record the times of commencement and termination of the meeting, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of any closed meeting shall be off the record. Subject to the provisions hereof and s. 119.07(2)(a) the court reporters notes of any closed meeting shall be retained by the association for a minimum of five years. A copy of the transcript, less any exempt matters, of any closed meeting wherein claims are discussed shall become public as to individual claims after settlement of said claim. These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 2. The Legislature finds that it is a public necessity that certain association records be held confidential and exempt. Certain medical records of association employees should be held confidential and exempt because they contain personal, sensitive information regarding an employee's medical condition the disclosure of which would be harmful to the employee. Likewise underwriting files contain medical information as well as private financial information regarding insureds the disclosure of which could be harmful to those insureds. Additionally such files contain proprietary confidential business information. Accordingly, it is a public necessity that those files, and meetings relating to such files, be closed. Additionally, matters reasonably encompassed in privileged attorney-client communications should be held confidential and exempt because the release of such information could jeopardize ongoing or pending litigation or other business matters. Also, open claims files records should be closed, as well as meetings concerning open claims files. If such records and meetings were not exempt, claimants would have unfettered access to information held by the association which could be used as evidence and for purposes of negotiation, claim evaluation, and settlement considerations, which would result in higher awards and settlements paid out by the association and ultimately the consumer. Records held by an internal auditor while an audit is incomplete, or while an investigation is pending, should be held confidential and exempt because otherwise possibly inaccurate information would be released or investigations jeopardized. Finally, it is a public necessity that information relating to negotiations for financing, reinsurance, depopulation, or contractual services be held confidential and exempt. If such information were not confidential and exempt those with whom the association contracted would have an economic advantage over the association, thus driving up the costs of doing business, which such costs would be passed on to the consumer.

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

And the title is amended as follows:

On page 1, lines 1-9, strike all of said lines and insert: A bill to be entitled An act relating to confidentiality of certain records and meetings of the Residential Property and Casualty Joint Underwriting Association; amending s. 627.351, F.S.; providing public records exemptions for underwriting files, open claims files, audit records for a specified time, matters reasonably encompassed in privileged attorney-client communications, licensed proprietary information made confidential by contract, certain employee medical records and employee assistance program records, minutes of closed meetings regarding underwriting files, minutes of closed meetings regarding claims files for a specified time, certain negotiation information for a specified time; regarding sharing of confidential records; providing a public meetings exemption when underwriting files or open claims files are discussed; requiring a court reporter to record all closed meetings and that such record be retained for 5 years; providing for release of transcribed court reporter notes; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

On motion by Senator Jones, the Senate concurred in the House amendment.

SB 1664 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 1724 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1724—A bill to be entitled An act relating to retail installment credit; amending s. 520.35, F.S.; revising the delinquency charges on revolving charge accounts; amending s. 520.07, F.S.; allowing retail installment contracts to require a buyer to post a bond or deposit installment payments in a court registry if he rejects or revokes acceptance of a motor vehicle under certain circumstances; amending s. 817.646, F.S.; providing for businesses to maintain certain credit card information about their customers; providing an effective date.

House Amendment 1—On page 4, strike all of lines 3-7 and insert:

(b) Any business entity may lawfully obtain the names, addresses, and account number of its own customers. Such information may only be maintained to serve the needs of its customers for its own promotional or marketing purposes.

House Amendment 2 (with Title Amendment)—On page 4, between lines 9 and 10, insert:

Section 4. Paragraph (c) is added to subsection (2) of section 687.03, Florida Statutes, to read:

687.03 "Unlawful rates of interest" defined; proviso.—

(2)

(c) Notwithstanding any other provision of this section, any lessor or merchant, or any person who lends money or extends any other form of credit, who is regularly engaged in the business of selling or leasing merchandise, goods, or services which are for other than personal, family, or household purposes, or any assignee of such lessor, merchant, or person who lends money or extends any other form of credit, who is the holder of a commercial installment contract, each of which persons or entities is subject to the laws of any jurisdiction of the United States, any state, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession of the United States, may, if the contract so provides, charge a delinquency charge on each installment which is in default for a period of not less than 10 days in an amount not in excess of 5 percent of such installment. However, only one such delinquency charge may be collected on any installment, regardless of the period during which it remains in default. A delinquency charge imposed pursuant to this paragraph shall not be deemed interest or a finance charge made incident to or as a condition to the grant of the loan or other extension of credit and shall not be included in determining the limit on charges, as provided by this section, which may be made in connection with the loan or other extension of credit as provided by law of this state.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 12, after the semicolon (;) insert: amending s. 687.03, F.S.; authorizing delinquency charges on commercial installment contracts under certain circumstances; providing that such delinquency charge is not interest or a finance charge for purposes of determining a rate of interest;

On motions by Senator McKay, the Senate concurred in the House amendments.

SB 1724 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 1936 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1936—A bill to be entitled An act relating to the confidentiality of certain records of the recovery network program for educators; reenacting and amending s. 231.263(9) and (11), F.S., which provide an exemption from the public records law for such records; saving the exemption from repeal; providing an effective date.

House Amendment 1—On page 2, line 9, type and strike "are not public records but"

On motion by Senator Sullivan, the Senate concurred in the House amendment.

SB 1936 passed as amended and was ordered engrossed and then enrolled The action of the Senate was certified to the House. The vote on passage was:

Yeas—39 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 2330 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2330—A bill to be entitled An act relating to postsecondary education; requiring each university to identify and limit the number of required courses; authorizing an exception; requiring the acceptance of credits from a community college under certain conditions; requiring the Articulation Coordinating Committee to undertake certain studies and make recommendations; requiring amendments to the common course designation and numbering system based upon the recommendations; requiring the appointment of a committee to develop a list of courses and course substitutions; requiring the establishment of prerequisites for admission to degree programs; amending s. 240.115, F.S.; specifying the number of hours of general education needed for admission to the upper division of a state university; providing for the articulation agreement to limit requirements for core curricula at community colleges and state universities; providing conditions for the award of an associate in arts degree or a baccalaureate degree; amending s. 240.1162, F.S.; adding certain considerations to the State Board of Education's process of articulation accountability; amending s. 240.233, F.S.; providing an exemption for certain students to the foreign language admissions requirement of state universities; amending s. 240.2333, F.S.; authorizing the articulation coordinating committee to specify alternative means for certain students to demonstrate foreign language proficiency; providing for student ombudsman offices at universities; directing universities to adopt a procedure; providing for student ombudsman offices at community colleges; directing community colleges to adopt a procedure; establishing guidelines; amending s. 240.2099, F.S.; specifying characteristics to be included in the computer-assisted student advising network; requiring the State University System and the community college system to establish a committee to oversee the development and maintenance of a student advising system; prescribing characteristics of the system; amending s. 240.325, F.S.; limiting the time by which a student who requires remediation must complete remedial college preparatory coursework; requiring the State Board of Education to adopt rules for courses required for a student to earn an associate in arts degree; limiting the number of general education credit hours a community college may require; requiring an accountability system for the State University System; amending s. 240.529, F.S.; authorizing public teacher preparation program recognition by the National Council for the Accreditation of Teacher Education to be optional; requiring consultation with specified boards prior to changing training requirements for entering into an occupation or profession; providing for the repeal of requirements that state universities comply with certain accreditation standards; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 3, line 8, strike everything after the enacting clause and insert:

Section 1. Paragraph (f) of subsection (1) of section 229.551, Florida Statutes, is amended to read:

229.551 Educational management.—

(1) The department is directed to identify all functions which under the provisions of this act contribute to, or comprise a part of, the state system of educational accountability and to establish within the department the necessary organizational structure, policies, and procedures for effectively coordinating such functions. Such policies and procedures shall clearly fix and delineate responsibilities for various aspects of the system and for overall coordination of the total system. The commissioner shall perform the following duties and functions:

(f) Development and coordination of a common course designation and numbering system for community colleges and the State University System which will improve program planning, increase communication among community colleges and universities, and facilitate the transfer of students. *The* ~~However, such a~~ system shall not encourage or require course content prescription or standardization or uniform course testing, and the continuing maintenance of the system shall be accomplished by appropriate faculty committees. Also, the system shall be applied to all postsecondary and postsecondary adult vocational programs and courses offered in school districts and community colleges. *The Articulation Coordinating Committee shall:*

1. Identify the highest demand degree programs within the State University System.

2. Conduct a study of courses offered by universities and accepted for credit toward a degree. The study shall identify courses designated as either general education or required as a prerequisite for a degree. The study shall also identify these courses as upper-division level or lower-division level.

3. Appoint faculty committees representing both community college and university faculties to recommend a single level for each course included in the common course numbering and designation system. Any course designated as an upper-division level course must be characterized by a need for advanced academic preparation and skills that a student would be unlikely to achieve without significant prior coursework. Of the courses required for each baccalaureate degree, at least half of the credit hours required for the degree shall be achievable through courses designated as lower-division courses, except in degree programs approved by the Board of Regents pursuant to s. 240.209(5)(e). A course designated as lower-division may be offered by any community college. By January 1, 1996, the Articulation Coordinating Committee shall recommend to the State Board of Education the levels for the courses. By January 1, 1996, the common course numbering and designation system shall include the courses at the recommended levels, and by fall semester of 1996, the registration process at each state university and community college shall include the courses at their designated levels and common course numbers.

4. Appoint faculty committees representing both community college and university faculties to recommend those courses identified to meet general education requirements within the subject areas of communication, mathematics, social sciences, humanities, and natural sciences. By January 1, 1996, the Articulation Coordinating Committee shall recommend to the State Board of Education those courses identified to meet these general education requirements by their common course code number. By fall semester 1996, all community colleges and state universities shall accept these general education courses.

5. Appoint faculty committees representing both community colleges and universities to recommend common prerequisite courses and identify course substitutions when common prerequisites cannot be established for degree programs across all institutions. Faculty work groups shall adopt a strategy for addressing significant differences in prerequisites, including course substitutions. The Board of Regents shall be notified by the Articulation Coordinating Committee when significant differences remain. By fall semester 1996, common degree program prerequisites shall be offered and accepted by all state universities and community colleges, except in cases approved by the Board of Regents pursuant to s. 240.209(5)(f). The Board of Regents shall work with the State Board of Community Colleges on the development of a centralized data base containing the list of courses and course substitutions that meet the prerequisite requirements for each baccalaureate degree program; and

Section 2. Section 240.115, Florida Statutes, 1994 Supplement, is amended to read:

240.115 Articulation agreement; acceleration mechanisms.—

(1)(a) Articulation between secondary and postsecondary education; admission of associate in arts degree graduates from Florida community colleges and state universities; the use of acceleration mechanisms, including nationally standardized examinations through which students may earn credit; *general education requirements and common course code numbers as provided for in s. 229.551(1)(f)4.;* and articulation among programs in nursing shall be governed by the articulation agreement, as established by the Department of Education. The articulation agreement must specifically provide that every associate in arts graduate of a Florida community college *shall have met all general education requirements and* must be granted admission to the upper division of a state university except to a limited access or teacher certification program or a major program requiring an audition. After admission has been granted to students under provisions of this section and to university students who have successfully completed 60 credit hours of coursework, *including 36 hours of general education,* and met the requirements of s. 240.107, admission shall be granted to State University System and Florida community college students who have successfully completed 60 credit hours of work, *including 36 hours of general education.* Community college associate in arts graduates shall receive priority for admission to a state university over out-of-state students. Orientation programs and student handbooks provided to freshman enrollees and transfer students at state universities must include an explanation of this provision of the articulation agreement.

(b) Any student who transfers among regionally accredited postsecondary institutions that participate in the common course designation and numbering system shall be awarded credit by the receiving institution for courses satisfactorily completed by the student at the previous institutions if the courses are judged by the appropriate common course designation and numbering system faculty task force to be equivalent to courses offered at the receiving institution. The award of credit may be limited to courses that are entered in the common course designation and numbering system. Credits awarded pursuant to this subsection shall satisfy institutional requirements on the same basis as credits awarded to native students.

(2) The universities, community college district boards of trustees, and district school boards are authorized to establish intrainstitutional and interinstitutional programs to maximize this articulation. *Programs may include upper division level courses offered at the community college, distance learning, and the concurrent enrollment of students at a community college and a state university to enable students to take any level of baccalaureate degree coursework.* Should the establishment of these programs necessitate the waiver of existing State Board of Education rules, reallocation of funds, or revision or modification of student fees, each college or university shall submit the proposed articulation program to the State Board of Education for review and approval. The State Board of Education is authorized to waive its rules and make appropriate reallocations, revisions, or modifications in accordance with the above.

(3) The universities and boards of trustees of the community colleges shall identify their core curricula, which shall include courses required by the State Board of Education. *The universities and community colleges shall work* ~~This shall be coordinated~~ with *their school districts to assure that high school curricula coordinate with the core curricula and* ~~secondary schools~~ to prepare students for college-level work. *Core curricula for associate in arts programs shall be adopted in rule by the State Board of Education and shall include 36 semester hours of general education courses in the subject areas of communication, mathematics, social sciences, humanities, and natural sciences. By January 1, 1996, general education coursework shall be identified by common course code numbers, consistent with the recommendations of the Articulation Coordinating Committee, pursuant to s. 229.551(1)(f)4. By fall semester 1996, degree program prerequisite courses and course substitutions shall be available at community colleges. With the exception of programs approved by the Board of Regents pursuant to s. 240.209(5)(f), degree program prerequisite courses shall be common across delivery systems and shall be identified by their common course code number consistent with the recommendations of the Articulation Coordinating Committee, pursuant to s. 229.551(1)(f)5.*

(4) The levels of postsecondary education shall collaborate in further developing and providing articulated programs in which students can proceed toward their educational objectives as rapidly as their circumstances permit. Time-shortened educational programs, as well as the use of acceleration mechanisms, shall include, but not be limited to, the International Baccalaureate, credit by examination or demonstration of competency, advanced placement, early admissions, and dual enrollment.

(5) *By fall semester of 1995,* each state university and community college shall offer~~, upon request,~~ to all students *each semester,* prior to *add/drop* ~~or during their first term of enrollment in the respective institution, and make available to all other students, not less than once annually~~, nationally standardized examinations listed in the articulation agreement, *or institutionally developed examinations,* through which students may earn credit in those general subject areas which are required or may be applied toward general education requirements for a baccalaureate degree at that university or associate degree at the community college. A student satisfactorily completing such examinations shall receive full credit for the course the same as if it had been taken, completed, and passed.

(6) An associate in arts degree shall require no more than 60 semester hours of college credit, including 36 semester hours of general education coursework. Except for college-preparatory coursework required pursuant to s. 240.117, all required coursework shall count toward the associate in arts degree or the baccalaureate degree. By fall semester of

1996, a baccalaureate degree program shall require no more than 120 semester hours of college credit, including 36 semester hours of general education coursework, unless prior approval has been granted by the Board of Regents.

(7) A student who received an associate in arts degree for successfully completing 60 semester credit hours may continue to earn additional credits at a community college. The university must provide credit toward the student's baccalaureate degree for an additional community college course if, according to the common course numbering and designation system, the community college course is a course listed in the university catalog as required for the degree or as prerequisite to a course required for the degree.

Section 3. Paragraphs (e), (f), (g), (h), and (i) are added to subsection (5) of section 240.209, Florida Statutes, 1994 Supplement, to read:

240.209 Board of Regents; powers and duties.—

(5) The Board of Regents is responsible for:

(e) Reviewing and approving or disapproving baccalaureate degree programs that exceed 120 semester hours, after consideration of accreditation requirements, employment and earnings of graduates, comparative program lengths nationally, and comparisons of similar programs offered by independent institutions. A two-thirds affirmative vote of the members of the Board of Regents must approve a request. By December 31 of each year, the Board of Regents must report to the Legislature any degrees in the State University System which require more than 120 hours, along with appropriate evidence of need. At least every 5 years, the Board of Regents must determine whether the programs still require more than the standard length of 120 hours.

(f) Reviewing and approving or disapproving degree programs identified by the Articulation Coordinating Committee as unique pursuant to s. 229.551(1)(f)5. The Board of Regents shall ensure that university students are aware of unique program prerequisites.

(g) Ensuring that at least half of the required coursework for any baccalaureate degree in the system is offered at the lower division level, except in program areas approved by the Board of Regents pursuant to paragraph (e).

(h) Recommending to the Legislature a plan for the implementation of an increased matriculation charge for students taking coursework in excess of degree requirements.

(i) Recommending to the Legislature a plan for the implementation of block tuition programs and other incentives to encourage students to graduate in 4 years.

Section 4. Section 240.2099, Florida Statutes, is amended to read:

240.2099 Computer-assisted student advising *system* ~~network~~; plans.—The Board of Regents and State Board of Community Colleges shall develop plans for implementing a *single, statewide* computer-assisted student advising *system, which must be an integral part of the process of advising, registering, and certifying students for graduation* ~~network statewide~~. *Plans shall include timelines for the implementation of the system and shall be submitted to the Legislature by October 1, 1996.* It is intended that an advising *system* ~~network~~ be *the primary advising and tracking tool for students enrolled in community colleges and universities and be accessible to* ~~developed for use by~~ students enrolled in each of the state universities, community colleges, and public secondary schools. *The State University System and the community college system shall establish a committee to oversee the development and maintenance of the advising system. The system shall consist of a degree audit and an articulation component that includes the following characteristics:*

(1) The system shall constitute an integral part of the process of advising students and assisting them in course selection. The system shall be accessible to students in the following ways:

(a) A student must be able to access the system, at any time, to identify course options that will meet the requirements of a selected path toward a degree.

(b) A status report from the system shall be generated and sent with each grade report to each student with a declared major.

(2) The system shall be an integral part of the registration process. As part of the process, the system shall:

(a) Provide reports that document each student's status toward completion of a degree.

(b) Verify that a student has completed requirements for graduation.

(3) The system must provide management information to decision-makers, including information relating student enrollment patterns and course demands to plans for corresponding course offerings and information useful in planning the student registration process. ~~The implementation plan shall include, but not be limited to, the development of student-specific academic programs and an identification of information and services available to students through the network, the proposed utilization of student data available through the Florida Information Resource Network, the relationship of student enrollment patterns with plans for corresponding course offerings, the relationship of the network with the student registration process, the projected timetable for institutional availability of the network, and any corresponding rules necessary to effect implementation of the network.~~

Section 5. Subsection (1) of section 240.233, Florida Statutes, is amended to read:

240.233 Universities; admissions of students.—Each university shall govern admissions of students, subject to this section and rules of the Board of Regents.

(1) Minimum academic standards for undergraduate admission to a university shall include the requirements that:

(a) Each student have received a high school diploma pursuant to s. 232.246, or its equivalent, except as provided in s. 240.116(2) and (3).

(b) Each student have earned two credits of sequential foreign language at the secondary level or the equivalent of such instruction at the postsecondary level. *A student whose native language is not English is exempt from this admissions requirement, provided that the student demonstrates proficiency in the native language. If a standardized test is not available in the student's native language for the demonstration of proficiency, the university may provide an alternative method of assessment.* A student who received an associate in arts degree prior to September 1, 1989, or who enrolled in a program of studies leading to an associate degree from a Florida community college prior to August 1, 1989, and maintains continuous enrollment shall be exempt from this admissions requirement.

Section 6. Section 240.2333, Florida Statutes, is amended to read:

240.2333 Foreign language competence; equivalence determinations.—The Articulation Coordinating Committee shall identify the competencies demonstrated by students upon the successful completion of 2 credits of sequential high school foreign language instruction. For the purpose of determining postsecondary equivalence pursuant to s. 240.233(1)(b), the committee shall develop rules through which community colleges correlate such competencies to the competencies required of students in the colleges' respective courses. Based on this correlation, each community college shall identify the minimum number of postsecondary credits that students must earn in order to demonstrate a level of competence in a foreign language at least equivalent to that of students who have completed 2 credits of such instruction in high school. The committee may also specify alternative means by which students can demonstrate equivalent foreign language competence, *including means by which a student whose native language is not English may demonstrate proficiency in the native language. A student who demonstrates proficiency in a native language other than English is exempt from the requirement of completing foreign language courses at the secondary or postsecondary level.*

Section 7. Subsection (3) of section 240.239, Florida Statutes, is amended to read:

240.239 Associate in arts degrees; issuance.—

(3) An associate in arts degree shall not be granted unless a student has successfully completed minimum requirements for college-level communication and computation skills adopted by the State Board of Education and ~~a minimum of~~ 60 academic semester hours or the equivalent *within a degree program area*, with *36* ~~not less than 36 of the~~ semester

hours in general education courses *in the subject areas of communication* ~~such as communications~~, mathematics, social sciences, humanities, and natural sciences, *consistent with the general education requirements specified in the articulation agreement pursuant to s. 240.115.*

Section 8. Paragraph (r) is added to subsection (3) of section 240.319, Florida Statutes, to read:

240.319 Community college district boards of trustees; duties and powers.—

(3) Such rules, procedures, and policies for the boards of trustees include, but are not limited to, the following:

(r) Each board of trustees has responsibility for: ensuring that students have access to general education courses as identified in rule; requiring no more than 60 semester hours of degree program coursework, including 36 semester hours of general education coursework, for an associate in arts degree; notifying students that earned hours in excess of 60 semester hours may not be accepted by state universities; notifying students of unique program prerequisites identified pursuant to s. 240.209(5)(f); and ensuring that degree program coursework beyond general education coursework is consistent with degree program prerequisite requirements adopted pursuant to s. 229.551(1)(f)5.

Section 9. Section 240.325, Florida Statutes, is amended to read:

240.325 Minimum standards, definitions, and guidelines for community colleges.—The State Board of Education shall prescribe minimum standards, definitions, and guidelines for community colleges which will assure *the* quality *of* education, systemwide coordination, *and efficient progress toward attainment of the community college mission. At a minimum, these rules must address* ~~and that the purposes of the community college are attained. Such guidelines may include, but are not limited to, the following areas~~:

(1) Personnel.

(2) Contracting.

(3) Program offerings and classification including college-level communication and computation skills associated with successful performance in college, with tests and other assessment procedures which measure student achievement of those skills. *The performance measures shall provide* ~~It should be provided~~ that students moving from one level of education to the next acquire the necessary competencies for that level.

(4) Provisions for curriculum development, graduation requirements, college calendars, and program service areas. *These provisions shall include rules that:*

(a) Provide for the award of an associate in arts degree to a student who successfully completes 60 semester credit hours at the community college.

(b) Require all of the credits accepted for the associate in arts degree to be in the common course numbering and designation system as credits toward a baccalaureate degree offered by a university in the State University System.

(c) Require no more than 36 semester credit hours in general education courses in the subject areas of communication, mathematics, social sciences, humanities, and natural sciences.

The rules should encourage community colleges to enter into agreements with universities which allow community college students to complete upper-division level courses at a community college. An agreement may provide for concurrent enrollment at the community college and the university, authority for the community college to offer an upper-division level course, or distance learning.

(5) Student admissions, conduct and discipline, nonclassroom activities, and fees.

(6) Budgeting.

(7) Business and financial matters.

(8) Student services.

(9) Reports, surveys, and information systems, including forms and dates of submission.

Section 10. Sections 10 through 20 of this act may be cited as the "Higher Education Access 2000 Act."

Section 11. Subsection (2) of section 240.147, Florida Statutes, 1994 Supplement, is amended to read:

240.147 Powers and duties of the commission.—The commission shall:

(2) Prepare and submit to the State Board of Education a master plan for postsecondary education. The plan shall include consideration of the promotion of quality, fundamental educational goals, programmatic access, needs for remedial education, regional and state economic development, international education programs, demographic patterns, student demand for programs, needs of particular subgroups of the population, implementation of innovative educational techniques and technology, and the requirements of the labor market. The capacity of existing programs, in both public and independent institutions, to respond to identified needs shall be evaluated, and a plan shall be developed to respond efficiently to unmet needs. *The master plan shall serve as the basis for the development of strategic plans by the Board of Regents, the State Board of Community Colleges, and the Independent Colleges and Universities of Florida. Development of the sector strategic plans shall be initiated following completion of the master plan to ensure coordination in addressing identified needs and strategies throughout postsecondary education.*

Section 12. Paragraphs (j) and (n) of subsection (3) of section 240.209, Florida Statutes, 1994 Supplement, are amended to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(j) After consultation with the university presidents, adopt a systemwide *strategic* ~~master~~ plan which specifies goals and objectives for the State University System. In developing this plan, the board shall consider the role of individual public and independent institutions within the state. The plan shall provide for the roles of the universities to be coordinated to best meet state needs and reflect cost-effective use of state resources. The *strategic* ~~master~~ plan shall clarify mission statements and identify degree programs to be offered at each university in accordance with the objectives provided herein. The systemwide *strategic* ~~master~~ plan shall be for a period of 5 years with modification of the program lists after 2 years. *Development of each 5-year plan shall be coordinated with and initiated subsequent to completion of the master plan specified in s. 240.147.* The Board of Regents shall submit a report to the Speaker of the House of Representatives and the President of the Senate upon modification of the system plan.

(n) Seek the cooperation and advice of superintendents and board members of local school districts in the state in performing its duties and making its plans, studies, and recommendations. The systemwide and university *strategic* ~~master~~ plans shall specifically include programs and procedures for responding to the educational needs of teachers and students in the public schools of this state.

Section 13. Subsection (2) of section 240.2093, Florida Statutes, 1994 Supplement, is amended to read:

240.2093 Board of Regents; issuance of bonds pursuant to s. 11(e), Art. VII, State Constitution.—

(2) The Board of Regents may approve the issuance of revenue bonds or other forms of indebtedness by a direct-support organization when such revenue bonds or other forms of indebtedness are used to finance or refinance capital projects which are to provide facilities necessary and desirable to serve the needs and purposes of the university, as determined by the systemwide *strategic* ~~master~~ plan adopted by the Board of Regents, and when the project has been approved by the Legislature.

Section 14. Subsection (1) of section 240.214, Florida Statutes, 1994 Supplement, is amended to read:

240.214 State University System accountability process.—It is the intent of the Legislature that an accountability process be implemented which provides for the systematic, ongoing evaluation of quality and effectiveness in the State University System. It is further the intent of the Legislature that this accountability process monitor performance at the system level in each of the major areas of instruction, research, and public service, while recognizing the differing missions of each of the

state universities. The accountability process shall provide for the adoption of systemwide performance standards and performance goals for each standard identified through a collaborative effort involving the State University System, the Legislature, and the Governor's Office. The accountability process shall result in an annual accountability report to the Legislature.

(1) The annual accountability report shall include goals and measurable objectives related to the systemwide *strategic* ~~master~~ plan pursuant to s. 240.209. The plan must include, at a minimum, objectives related to the following measures:

(a) Total student credit hours;

(b) Total number of contact hours of instruction produced by faculty, by institution, rank, and course level;

(c) Pass rates on professional licensure examinations, by institution;

(d) Institutional quality as assessed by followup, such as analyses of employment information on former students, national rankings, and surveys of alumni, parents, clients, and employers;

(e) Length of time and number of academic credits required to complete an academic degree, by institution and by degree;

(f) Enrollment, progression, retention, and graduation rates by race and gender;

(g) Student course demand;

(h) An analysis of administrative and support functions;

(i) Every 3 years, beginning 1995-1996, an analysis of the cumulative debt of students; and

(j) An evaluation of the production of classroom contact hours at each university in comparison to a standard of 12 contact hours per term or 32 contact hours per year for each full-time instructional position and the level of funding provided for instruction.

Section 15. Subsection (23) of section 240.227, Florida Statutes, is amended to read:

240.227 University presidents; powers and duties.—The president is the chief administrative officer of the university and is responsible for the operation and administration of the university. Each university president shall:

(23) Otherwise provide for the effective operation of the university in the achievement of the goals established for it in the *strategic* ~~master~~ plan adopted by the Board of Regents.

Section 16. Subsection (5) of section 240.299, Florida Statutes, 1994 Supplement, is amended to read:

240.299 Direct-support organizations; use of property; board of directors; audit; facilities.—

(5) FACILITIES.—In addition to issuance of indebtedness pursuant to s. 240.2093(2), each direct-support organization is authorized to enter into agreements to finance, design and construct, lease, lease-purchase, purchase, or operate facilities necessary and desirable to serve the needs and purposes of the university, as determined by the systemwide *strategic* ~~master~~ plan adopted by the Board of Regents, upon approval of such agreements by the Board of Regents and approval of the project by the Legislature. Such agreements are subject to the provisions of s. 243.151.

Section 17. Section 240.6045, Florida Statutes, is created to read:

240.6045 Limited access competitive grant program.—

(1) There is established a limited access competitive grant program which shall be administered by the Department of Education. The purpose of the program shall be to provide enrollment opportunities for qualified applicants unable to obtain admission to selected State University System limited access programs or equivalent academic tracks.

(2) The Postsecondary Education Planning Commission shall annually identify for the State Board of Education selected high priority employment fields, commonly referred to as limited access programs, which require a baccalaureate degree and for which state universities have insufficient capacity to serve all qualified applicants.

(3) Program applicants shall be Florida residents, either community college graduates or state university students, who because of lack of space are denied admission to a State University System program directly related to a high priority employment field identified by the State Board of Education.

(4) A limited access competitive grant may be awarded in a competitive grant which equals 50 percent of the cost to the state per academic year of funding an undergraduate student in public postsecondary education if the recipient chooses to enroll in a comparable program provided by an eligible independent college or university in Florida. Eligible independent institutions shall be designated by the Department of Education and shall be selected from among institutions accredited by the Commission on Colleges of the Southern Association of Colleges and Schools. Priority shall be given to state residents who graduate from a Florida high school or community college.

(5) The admissions and graduation requirements of the receiving independent college or university shall apply to the grant recipient.

(6) The State Board of Education shall adopt any rules necessary for the implementation of this grant program.

(7) The Postsecondary Education Planning Commission, in consultation with the Board of Regents, the State Board of Community Colleges, the Independent Colleges and Universities of Florida, and the State Board of Education, shall recommend to the Legislature an accountability process for the limited access competitive grant program. The process shall make use of existing information submitted by the respective system in conjunction with the establishment of the program. The process shall demonstrate an emphasis on assessment of the benefits and cost-effectiveness of the limited access competitive grant program in providing state residents with uninterrupted access to their major field of study leading to the successful completion of a baccalaureate degree in the shortest time possible. The Legislature shall provide oversight of this accountability process.

Section 18. Paragraph (a) of subsection (5) of section 240.605, Florida Statutes, 1994 Supplement, is amended to read:

240.605 Florida resident access grants.—

(5)(a) Funding for the Florida resident access grant shall be based on a formula composed of planned enrollment and the state cost of funding undergraduate enrollment at public institutions pursuant to s. 240.271. However, the amount of the Florida resident access grant issued to a full-time student shall be *30 percent in 1996-1997, 35 percent in 1997-1998, and* ~~no more than~~ 40 percent *in 1998-1999 and thereafter* of the full cost to the state per academic year of an undergraduate student in public postsecondary education established pursuant to s. 240.209 or as specified in the General Appropriations Act. The Florida resident access grant may be paid on a prorated basis in advance of the registration period. The department shall make such payments to the college or university in which the student is enrolled for credit to the student's account for payment of tuition and fees. Institutions shall certify to the department the amount of funds disbursed to each student and shall remit to the department any undisbursed advances or refunds within 60 days of the end of regular registration. Students shall not be eligible to receive the award for more than 9 semesters or 14 quarters, except as otherwise provided in s. 240.404(3).

Section 19. Subsections (1) and (2) of section 243.151, Florida Statutes, 1994 Supplement, are amended to read:

243.151 Lease agreements; land, facilities.—

(1) Each university is authorized to negotiate and, upon approval of the Board of Regents, enter into agreements to lease land under its jurisdiction to for-profit and nonprofit corporations, registered by the Secretary of State to do business in this state, for the purpose of erecting thereon facilities and accommodations necessary and desirable to serve the needs and purposes of the university, as determined by the systemwide *strategic* ~~master~~ plan adopted by the Board of Regents. Such agreement will be for a term not in excess of 99 years or the life expectancy of the permanent facilities constructed thereon, whichever is shorter, and shall include as a part of the consideration provisions for the eventual ownership of the completed facilities by the state. The Board of Trustees of the Internal Improvement Trust Fund upon request of the university shall lease any such property to the university for sublease as heretofore provided.

(2) Each university is authorized to enter into agreements with for-profit and nonprofit corporations, registered by the Secretary of State to do business in this state, whereby income-producing buildings, improvements, and facilities necessary and desirable to serve the needs and purposes of the university, as determined by the systemwide *strategic* ~~master~~ plan adopted by the Board of Regents, are acquired by purchase or lease-purchase by the university, upon approval of the Board of Regents and approval of the project by the Legislature. When such agreements provide for lease-purchase of facilities erected on land that is not under the jurisdiction of the university, the agreement shall include as a part of the consideration provisions for the eventual ownership of the land and facility by the state. Agreements for lease-purchase shall not exceed 30 years or the life expectancy of the permanent facility constructed, whichever is shorter. Notwithstanding the provisions of any other law, the Board of Regents may enter into an agreement for the lease-purchase of a facility under this section for a term greater than 1 year when such term has been approved by the Legislature as part of the project. Each university, upon approval of the Board of Regents, is authorized to use any auxiliary trust funds, available and not otherwise obligated, to pay rent to the owner should income from the facilities not be sufficient in any debt payment period. The trust funds used for payment of rent shall be reimbursed as soon as possible to the extent that income from the facilities exceeds the amount necessary for such debt payment.

Section 20. Subsection (2) of section 282.308, Florida Statutes, 1994 Supplement, is amended to read:

282.308 State University System information resources management plan.—

(2) The Chancellor of the State University System shall review, recommend modifications to, and approve each university plan and shall provide a copy of each university's approved plan and a copy of the approved State University System Strategic Information Resources Management Plan to the commission by May 1 of each even-numbered year. Such plans are not subject to approval by the commission, but shall support and further the goals and objectives of the *strategic* ~~master~~ plan required pursuant to s. 240.209(3)(j), the state agency strategic plan prepared by the Department of Education pursuant to s. 186.021, and the State Strategic Plan for Information Resources Management specified in s. 282.3061.

Section 21. University student ombudsman office.—

(1) There is created at each university a student ombudsman office, which is accountable to the president.

(2) Each university must have an established procedure which a student may appeal to the office of the ombudsman a decision that is related to the student's access to courses and credit granted toward the degree. Detailed information concerning this procedure must be included in the university catalog.

(3) Each university shall develop minimum standards for the role of ombudsman, or student advocate. The standards shall address the issue of notification of students of opportunities for assistance or appeal.

Section 22. Community college student ombudsman office.—

(1) There is created at each community college a student ombudsman office, which is accountable to the president.

(2) Each community college must have an established procedure by which a student may appeal to the office of the ombudsman a decision that is related to the student's access to courses and credit granted toward the degree. Detailed information concerning this procedure must be included in the community college catalog.

(3) Each community college shall develop minimum standards for the role of ombudsman, or student advocate. The standards shall address the issue of notification of students of opportunities for assistance or appeal.

Section 23. Any state agency or board that has jurisdiction over the regulation of a profession or occupation shall consult with the State Board of Independent Colleges and Universities, the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools, the Board of Regents, and the State Board of Community Colleges prior to adopting any changes to training requirements relating to entry into the profession or occupation. This consultation must allow the educational board to provide advice regarding the impact of the proposed changes in terms of the length of time necessary to complete the training program and the fiscal impact of the changes. The educational board must be consulted only when an institution offering the training program falls under its jurisdiction.

Section 24. All statutes that require baccalaureate degree programs offered by state universities to conform to standards created by public or private accrediting organizations or associations, or professional associations, shall be reviewed by the Postsecondary Education Planning Commission. The Postsecondary Education Planning Commission shall submit recommendations to the Legislature by December 31, 1995, on those statutes which should be revised, consolidated, readopted, or repealed.

Section 25. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, line 2, through page 3, line 5, strike all of said lines and insert: An act relating to undergraduate postsecondary education; amending s. 229.551, F.S.; requiring additional duties of the Articulation Coordinating Committee relating to study of and recommendations for general education courses and courses required for a degree; amending s. 240.115, F.S., relating to the articulation agreement; providing general education requirements; permitting the concurrent enrollment of students across delivery systems; requiring the adoption of rules relating to certain core curricula; providing requirements for general education and degree program coursework; providing for the offering of certain examinations; limiting degree coursework completion requirements; amending s. 240.209, F.S., relating to the duties of the Board of Regents; permitting exceptions to degree coursework completion requirements and prerequisite requirements; requiring recommendation of increased matriculation charge in certain instances; requiring implementation of certain incentive programs; amending s. 240.2099, F.S.; providing for a statewide computer-assisted student advising system; requiring oversight by the State University System and the State Community College System; providing system requirements; amending s. 240.233, F.S.; permitting exemption from foreign language requirements in certain instances; amending s. 240.2333, F.S.; providing for an additional means to measure foreign language proficiency; amending s. 240.239, F.S.; revising associate in arts degree requirements; amending s. 240.319, F.S.; requiring additional responsibilities of community college district boards of trustees relating to coursework; amending s. 240.325, F.S.; requiring rules relating to community college credit hours; creating the "Higher Education Access 2000 Act"; amending s. 240.147, F.S.; providing requirements relating to the master plan prepared by the Postsecondary Education Planning Commission; amending s. 240.209, F.S., relating to Board of Regents' duties; renaming the systemwide master plan as the systemwide strategic plan and providing requirements thereof; amending ss. 240.2093, 240.214, 240.227, 240.299, 243.151, and 282.308, F.S.; conforming provisions; creating s. 240.6045, F.S.; establishing a limited access competitive grant program; providing for identification of high priority employment fields; providing student eligibility; providing for award of grants; providing for rules; providing for an accountability process; amending s. 240.605, F.S., relating to Florida resident access grants; revising provisions relating to the amount of grants; providing for student ombudsman offices at universities; directing universities to adopt procedures and standards; providing for student ombudsman offices at community colleges; directing community colleges to adopt procedures and standards; requiring consultation with specified boards prior to changing training requirements for entering into an occupation or profession; providing for the review of requirements that state universities comply with certain accreditation standards; providing an effective date.

On motion by Senator Kirkpatrick, the Senate concurred in the House amendment.

CS for SB 2330 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 2396 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2396—A bill to be entitled An act relating to education; creating the "Charter School Program Act"; providing legislative findings; providing for district school boards to authorize the creation of charter schools; providing for a charter school to be operated by a board of trustees; providing requirements for an application to operate a charter school; providing that a school board's decision to grant, deny, or terminate a charter is not subject to review under ch. 120, F.S.; prescribing powers and duties of a charter school and a board of trustees; providing requirements for a charter school in limiting admissions and giving preference for enrollment; exempting charter schools from certain statutes; providing for funding charter schools; prescribing rights and duties of employees of charter schools; providing requirements for resolving complaints; providing circumstances under which a school board may refuse to renew a charter or revoke a charter; requiring the Department of Education to provide information; providing for a state university to grant charter status to a developmental research school; authorizing the State Board of Education to adopt rules; requiring the Commissioner of Education to evaluate the charter schools; authorizing the creation of charter technical institutes; prescribing powers and duties of the Commissioner of Education, the Department of Education, the district school boards, and the Jobs and Education Partnership with respect to charter technical institutes; prescribing powers and duties of charter technical institutes and their boards of trustees; providing for funding charter technical institutes; prescribing rights and duties of employees of charter technical institutes and of district school board employees working at charter technical institutes; providing for resolution of complaints; providing for revocation of a charter; providing for rules; amending s. 236.081, F.S.; providing for calculating school district funding resulting from a drop in enrollment based on student transfers to a charter technical institute; providing an effective date.

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

Section 1. Subsections (3) and (5) and paragraph (i) of subsection (4) of section 230.2303, Florida Statutes, 1994 Supplement, are amended to read:

230.2303 Florida First Start Program.—

(3) PLAN.—Each school board may submit to the Commissioner of Education a plan for conducting a Florida First Start Program. Each plan and subsequent amended plan shall be developed in cooperation with the district interagency coordinating council on early childhood services established pursuant to s. 230.2305 and the Interagency Prekindergarten Council for Children with Disabilities, and shall be approved by the commissioner. To be eligible for state funding pursuant to this section, a district school board's plan shall be designed to serve children from birth to 3 years of age who are disabled or at risk of future school failure *or who are economically disadvantaged* and to serve their parents. For the purposes of this section, the term "children with disabilities or at risk of future school failure" includes any child who has one or more of the characteristics described in s. 411.202(8). *An economically disadvantaged child is eligible as a child whose family's income is at or below 100 percent of the federal poverty level or whose family's income level impairs the development of the child. A district school board's plan shall establish a sliding fee scale for use after children from the economically disadvantaged category have been assisted.*

(4) PLAN APPROVAL.—To be considered for approval, each plan, or amendment to a plan, shall be based on current research findings regarding the growth and development of infants and young children and shall include the following program components:

(i) Coordination with district prekindergarten early intervention programs, *Healthy Start, Even Start Family Literacy, Head Start, adult education, Project Independence, the Job Training Partnership Act, the teenage parent program, full-service schools, and any other programs* ~~and the Florida Progress in Elementary Education Program~~.

~~(5) EVALUATION.—The commissioner shall conduct or contract for a longitudinal study of the effectiveness of the program, including the Florida First Start model schools for coordinated children's services. This study shall include, but not be limited to, longitudinal assessment of the children's behavior, growth and development, achievement, and success in school, and the parents' continued involvement with the education of their children. The interim results of this evaluation shall be reported annually to the Legislature on or before January 1, and a final report to the Legislature shall be due on or before January 1, 1995.~~

Section 2. Subsections (2), (3), and (6) and paragraphs (a) and (b) of subsection (9) of section 230.2305, Florida Statutes, 1994 Supplement, are amended to read:

230.2305 Prekindergarten early intervention program.—

(2) PROGRAM.—There is hereby created the prekindergarten early intervention program for children who are 3 and 4 years of age. A prekindergarten early intervention program shall be administered by a district school board and shall receive state funds pursuant to subsection (9). Prekindergarten early intervention programs shall be implemented and conducted by school districts pursuant to a plan developed and approved as provided in this section. School district participation in the prekindergarten early intervention program shall be at the discretion of each school district.

(a) At least 75 percent of the children projected to be served by the district program shall be economically disadvantaged 4-year-old children, including migrant children. Other children projected to be served by the district program may include any of the following up to a maximum of 25 percent of the total number of children served:

1. Three-year-old and four-year-old children who are referred to the school system who may not be economically disadvantaged but who are abused, prenatally exposed to alcohol or harmful drugs, or from foster homes, or who are marginal in terms of Exceptional Student Education placement.

2. Three-year-old children and four-year-old children who may not be economically disadvantaged but who are eligible students with disabilities and served in a specific part-time or combination of part-time exceptional student education programs with required special services, aids, or equipment and who are reported for funding part-time in the Florida Education Finance Program as exceptional students. These students may be funded from prekindergarten early intervention program funds the portion of the time not funded by the Florida Education Finance Program for the actual instructional time or one full-time equivalent student membership, whichever is the lesser. These part-time students with disabilities shall be counted toward the 25-percent student limit based on full-time equivalent student membership funded part-time by prekindergarten early intervention program funds. Also, 3-year-old or 4-year-old eligible students with disabilities who are reported for funding in the Florida Education Finance Program in a full-time or an authorized combination of full-time and part-time exceptional student programs as provided in s. 236.081(1)(c) may be mainstreamed in the prekindergarten early intervention program if such programming is reflected in the student's individual educational plan; if required special services, aids, or equipment are provided; and if there is no operational cost to prekindergarten early intervention program funds. These full-time exceptional students shall not count against the 75-percent or 25-percent student limit as stated in this paragraph.

3. Economically disadvantaged 3-year-old children served in groups.

4. Economically disadvantaged 3-year-old children served at home through home visitor programs and intensive parent education programs.

5. Children who meet federal and state requirements for eligibility for the migrant preschool program but who do not meet the criteria of "economically disadvantaged" as defined in paragraph (b), who shall not pay a fee.

6. After the groups listed in subparagraphs 1., 2., 3., and 4. have been served, 3-year-old and 4-year-old children who are not economically disadvantaged and for whom a fee is paid for the children's participation.

(b) School districts which serve all eligible 4-year-old children may serve additional 3-year-old children in excess of the 25-percent student limit with the unused funds or may transfer any unused funds to the District Discretionary Lottery allocation for use in the district Florida Education Finance Program.

(c)~~(b)~~ *For purposes of this section,* an "economically disadvantaged" child shall be defined as a child eligible to participate in the free lunch program. Notwithstanding any change in a family's economic status or in the federal eligibility requirements for free lunch, a child who meets the eligibility requirements upon initial registration for the program shall be considered eligible *until such child enters kindergarten* ~~through the end of that school year~~. In order to assist the school district in establishing the priority in which children shall be served, the central agency for state-subsidized child care or the local service district of the Department of Health and Rehabilitative Services shall provide the school district with an updated list of 3-year-old and 4-year-old children residing in the school district who are on the waiting list for state-subsidized child care.

(3) PLANS.—Each district school board that chooses to participate in the prekindergarten early intervention program shall submit to the Commissioner of Education a plan for implementing and conducting a prekindergarten early intervention program. *Each district plan must contain a section which describes efforts to utilize state prekindergarten early intervention program funds provided to the district pursuant to this section to match federal child care resources. Such efforts should include specific measures for identifying children enrolled in the prekindergarten early intervention program whose families are eligible for Aid to Families with Dependent Children and must have child care either to participate in Project Independence or to accept or continue employment. As a part of the annual report required under subsection (8), the district shall provide to the Department of Education an analysis of its federal funds maximizing efforts which will include at a minimum the number of prekindergarten children found to meet these criteria and the amount of federal earnings realized.* Each plan or amended plan shall be developed in cooperation with the local interagency coordinating council on early childhood services pursuant to subsection *(10)* ~~(11)~~ and shall be approved by the commissioner. A district school board shall submit a plan or amended plan for planning and evaluating prekindergarten programs, implementing new services, enhancing existing early childhood, prekindergarten, or child care programs provided by public or nonpublic entities, or contracting for the provision of services or facilities. School boards are encouraged to include in their plans an explanation of the role of the prekindergarten early intervention program in the school district's effort to meet the first state education goal, readiness to start school, and the plan should include the utilization of public and private programs already in existence in the district, business-education partnerships, and preschool programs operated by vocational-technical schools, community colleges, and universities. A district school board plan shall identify the locations where services will be provided and may include public school property or other sites that meet state and local licensing requirements for child day care facilities or State Board of Education rules, except that sites shall be located to the maximum extent practicable so as to provide easy access by parents, especially working parents of economically disadvantaged children. When a district uses nonschool facilities or nonschool facility staff for the provision of services, a contract is required; when a district uses nonschool facilities and provides district instructional staff, a cooperative agreement is required. Unless the commissioner requests a revised plan, districts with plans approved subsequent to July 1, 1989, must submit only amendments to their initial plans to the commissioner by November 15 of each subsequent year.

(6) EVALUATION.—*Each school district shall be responsible for the ongoing monitoring and evaluation of the prekindergarten early intervention program to ensure that the program is meeting the state's minimum standards for performance. The department shall establish minimum performance standards which will include appropriate performance and achievement levels for participants in the program.* ~~The commissioner shall conduct or contract for a longitudinal study of the effectiveness of the prekindergarten early intervention program. This study shall include, but not be limited to, longitudinal assessment of the children's behavior, growth and development, achievement, and success in school and of the effects of parental involvement in the program on the children's progress. The interim results of this evaluation shall be reported annually to the Legislature on or before January 1 of each year, and a final report to the Legislature shall be due on or before January 1, 1995.~~

(9) FUNDING.—

(a) This section shall be implemented only to the extent that funding is available. State funds appropriated for the prekindergarten early intervention program may not be used for the construction of new facilities~~, the transportation of students,~~ or the purchase of buses, but may be used for educational field trips which enhance the curriculum.

1. At least 70 percent of the total funds allocated to each school district pursuant to this section shall be used for implementing and conducting a prekindergarten early intervention program or contracting with other public or nonpublic entities for programs to serve eligible children. The maximum amount to be spent per child for this purpose shall be designated annually in the General Appropriations Act.

2. No more than 30 percent of the funds allocated to each school district pursuant to this section may be used to enhance existing public and nonpublic programs for eligible children, to provide before-school and after-school care for children served pursuant to this section, to remodel or renovate existing facilities pursuant to the provisions of chapter 235, to lease or lease-purchase facilities in accordance with subsection (3) of this section, to purchase classroom equipment to allow the implementation of the prekindergarten early intervention program, and to provide training for program teachers and administrative personnel employed by the school district and by agencies with which the school district contracts for the provision of prekindergarten services. *No funds shall be spent on major renovation or remodeling of facilities, lease-purchase of facilities, or major outlay for capital improvements or infrastructure until it can be shown that outside contracts for such services have been considered.*

3. Funds may also be used pursuant to subparagraphs 1. and 2. to provide the prekindergarten early intervention program for more than 180 school days.

(b) A minimum grant for each district shall be determined annually in the General Appropriations Act. The funds remaining after allocating the minimum grants shall be prorated based on an allocation factor for each district and shall be added to each district's minimum grant. The allocation factor shall be calculated as follows:

District percentage of state 3-year-old and 4-year-old children	×	1/4	+	District percentage of state free lunch students × 3/4

The calculation of each district's allocation factor shall be based upon the official estimate of the total number of 3-year-old and 4-year-old children by school district and the official record of the Department of Education for K-12 student participation in the free lunch program by school district for the prior fiscal year.

Section 3. *All state funded early intervention programs shall coordinate with district interagency coordinating councils on early childhood services, pursuant to s. 230.2305(10), Florida Statutes, and all federal early intervention programs, including Head Start, are encouraged to coordinate with such councils.*

Section 4. *Notwithstanding the provisions of chapters 89-101, 89-379, and 90-288, Laws of Florida, which provide for review and repeal, sections 230.2303 and 230.2305, Florida Statutes, shall not stand repealed on July 1, 1995, and shall continue in full force and effect as amended herein.*

Section 5. *(1) This section may be cited as the "Florida Maximum Class Size Goals Act."*

(2) The Legislature finds that class size is a major factor in the ability of students to learn and teachers to teach. It shall be the goal of each school district and each elementary school that for grade level one in the 1995-1996 school year, for grade levels one and two in the 1996-1997 school year, and for grade levels one, two, and three in the 1997-1998 school year, class sizes not exceed 20 students, with a ratio of one teacher per 20 students. For the purposes of this section, class sizes that exceed 20 students meet the goal if, for every five students above a base of 20 students, there is at least one full-time teacher aide.

Section 6. *(1) The Legislature finds that it is in the best interest of the students, teachers, and parents of students in the public school system to perform a thorough and intensive review of the Florida Statutes relating to education in order to produce better results with less waste of taxpayers' money.*

(2) The Department of Education shall review chapters 228, 229, 230, 231, 232, 233, 234, 236, 237, 239, and 411, Florida Statutes, and shall submit a report and recommendations to the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the Senate and the House of Representatives by December 1, 1995. The review conducted by the Department of Education must identify and consider the relationship between each section of those chapters

and other statutory requirements and the impact of a repeal of each section upon the operations, functions, and duties of the Department of Education and the school districts.

(3) It is the intent of the Legislature that chapters 228, 229, 230, 231, 232, 233, 234, 236, 237, 239, and 411, Florida Statutes, be reviewed, revised and reenacted in whole or in part prior to June 30, 1996. Should the Legislature be unable to review any chapter in whole or in part, those sections shall remain in full force and effect until June 30, 1997. Any sections of the designated chapters of the Florida Statutes not enacted or reenacted by the 1996 Legislature or the 1997 Legislature should be reviewed by June 30, 1997.

Section 7. Subsection (14) of section 229.512, Florida Statutes, is amended to read:

229.512 Commissioner of Education, general powers and duties.—The Commissioner of Education is the chief educational officer of the state, and he has the following general powers and duties:

(14) To implement *and enforce a Blueprint 2000 system* ~~a program~~ of school improvement and education accountability as provided by statute and State Board of Education rule which is based upon the achievement of the state education goals, recognizing the State Board of Education as the body corporate responsible for the supervision of the system of public education, the school board as responsible for school and student performance, and the individual school as the unit for education accountability; to arrange for the preparation, publication, and distribution of materials relating to the state system of public education which will supply information concerning needs, problems, plans, and possibilities; to prepare and publish annually reports giving statistics and other useful information pertaining to the state system of public education; ~~and~~ to have printed copies of school laws, forms, instruments, instructions, and regulations of the State Board of Education and to provide for the distribution of the same; and

Section 8. Subsection (1) of section 229.58, Florida Statutes, is amended to read:

229.58 ~~District and~~ School advisory councils.—

(1) ESTABLISHMENT.—

~~(a)~~ The school board shall establish an advisory council for each school in the district, and shall develop procedures for the election and appointment of advisory council members ~~who are appointed after July 1, 1993~~. *A majority of the members of each school advisory council shall be persons who are not employed by the school board at that school.* Each advisory council shall be composed of the principal and an appropriately balanced number of teachers, education support employees, students, parents, and other business and community citizens who are representative of the ethnic, racial, and economic community served by the school, provided that *area technical* ~~vocational-technical~~ center and high school advisory councils shall include students, and *elementary,* middle, and junior high school advisory councils may include students. *Any school board that operates an area technical center may appoint alumni of the center to serve on the center advisory council in lieu of parents.* Council members representing teachers, education support employees, students, and parents shall be elected by their respective peer groups at the school in a fair and equitable manner as follows:

(a)~~1.~~ Teachers shall be elected by teachers.

(b)~~2.~~ Education support employees shall be elected by education support employees.

(c)~~3.~~ Students shall be elected by students.

(d)~~4.~~ Parents shall be elected by parents.

Business and other community members shall be selected by the school according to a procedure established by the school board. The school board shall review the membership composition of each advisory council. Should the school board determine that the membership elected by the school is not representative of the ethnic, racial, and economic community served by the school, the board shall appoint additional members to achieve proper representation. ~~Although schools should be strongly encouraged to establish school advisory councils, any school district that has a student population of 10,000 or fewer may establish a district advisory council which shall include at least one duly elected teacher from each school in the district.~~

School districts with a student population of 10,000 or fewer students who have district-level school advisory councils operating in the 1994-95 school year may continue the operation of such councils or they may create school level advisory councils as provided in this subsection.

For the purposes of school advisory councils ~~and district advisory councils~~, the term "teacher" shall include classroom teachers, certified student services personnel, and media specialists. For purposes of this paragraph, "education support employee" *as defined in s. 231.3605* means any person employed by a school ~~who is not defined as instructional or administrative personnel pursuant to s. 228.041 and whose duties require 20 or more hours in each normal working week~~.

~~(b) The school board may establish a district advisory council representative of the district and composed of teachers, students, parents, and other citizens or a district advisory council which may be comprised of representatives of each school advisory council. Recognized schoolwide support groups which meet all criteria established by law or rule may function as school advisory councils.~~

Section 9. Paragraph (f) of subsection (3) of section 229.591, Florida Statutes, is amended, and paragraph (h) is added to said subsection, to read:

229.591 Comprehensive revision of Florida's system of school improvement and education accountability.—

(3) EDUCATION GOALS.—The state as a whole shall work toward the following goals:

(f) Teachers and staff.—The schools, *districts, postsecondary institutions* ~~district~~, and state ensure professional teachers and staff.

(h) Parental involvement.—Communities, school boards, and schools provide opportunities for involving parents and guardians as active partners in achieving school improvement and education accountability. Standards for this goal shall be adopted during the 1995-1996 school year and shall be implemented no later than the 1996-1997 school year.

Section 10. Paragraph (e) of subsection (3) and paragraphs (a), (b), and (d) of subsection (6) of section 229.592, Florida Statutes, 1994 Supplement, are amended to read:

229.592 Implementation of state system of school improvement and education accountability.—

(3) COMMISSIONER.—The commissioner shall be responsible for implementing and maintaining a system of intensive school improvement and stringent education accountability.

(e) As co-chairman of the Florida Commission on Education Reform and Accountability, the commissioner shall appear before the appropriate committees of the Legislature annually in October to report and recommend changes in state policy necessary to foster school improvement and education accountability. The report shall reflect the recommendations of the Florida Commission on Education Reform and Accountability. Included in the report shall be a list of the schools for which school boards have developed assistance and intervention plans and an analysis of the various strategies used by the school boards. In the fall of 1992 and 1993, the commissioner shall report in writing to the public on the current status of the state's education system. School boards shall distribute this report to the parents of all pupils in the district. Beginning with the 1993-1994 school year and each school year thereafter, school reports shall be distributed pursuant to this paragraph and s. 230.23(18)*(f)* ~~(e)~~ according to guidelines adopted by the State Board of Education.

(6) EXCEPTIONS TO LAW.—To facilitate innovative practices and to allow local selection of educational methods during the time period required for careful deliberation by the Legislature and the Florida Commission on Education Reform and Accountability, the following time-limited exceptions shall be permitted:

(a) In the annual General Appropriations Acts, the Legislature may authorize exceptions to any laws pertaining to fiscal policies, including ss. 236.013 and 236.081, provided the intent is to give school districts increased flexibility and local control of education funds. If the General Appropriations Act does not contain a specific line-item appropriation or a specific listing within a line-item appropriation which provides funding for the programs established pursuant to the following statutes, the statute shall be held in abeyance for that fiscal year, and any approved plan

for implementing said statute shall be null and void for said fiscal year: ss. 228.0855; 230.2215; 230.2305; 230.2318; 231.087; 231.613; 232.257; 233.0615; 233.0678; 234.021; ~~236.0873;~~ 236.083; ~~236.092;~~ 236.122; 236.1225; ~~236.1228;~~ and 239.401.

(b) ~~The methods and requirements of the following statutes shall be held in abeyance: ss. 228.088; and 229.57(4) and (5).~~ In determining which statutes and rules stand in the way of school improvement, the Florida Commission on Education Reform and Accountability shall consider the effect that holding the statutes listed in *paragraph* ~~paragraphs~~ (a) ~~and (b)~~ in abeyance has had on the school improvement process. It is the intent of the Legislature that statutes listed in *paragraph* ~~paragraphs~~ (a) ~~and (b)~~ be systematically repealed after being held in abeyance for 3 consecutive fiscal years.

(d) Notwithstanding the provisions of chapter 120 and for the purpose of implementing this subsection, the commissioner may waive State Board of Education rules adopted to implement statutes listed in paragraphs (a)~~, (b),~~ and (c), provided that the intent of each rule is met and the school board has submitted a written request to the commissioner for approval pursuant to this subsection.

Section 11. Paragraph (g) is added to subsection (2) of section 229.594, Florida Statutes, to read:

229.594 Powers and duties of the commission.—

(2) The commission shall:

(g) Develop and adopt a procedure to be followed for resolving complaints of noncompliance with the statutory and state board rule requirements of Blueprint 2000.

Section 12. Subsections (14) and (18) of section 230.23, Florida Statutes, 1994 Supplement, are amended to read:

230.23 Powers and duties of school board.—The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(14) ENFORCEMENT OF LAW AND RULES AND REGULATIONS.—Require that all laws and rules and regulations of the state board, *including the enforcement of provisions of statute and rule related to Blueprint 2000,* or of the school board are properly enforced.

(18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—Maintain a *Blueprint 2000* system of school improvement and education accountability as provided by statute and State Board of Education rule. This system of school improvement and education accountability shall be consistent with, and implemented through, the district's continuing system of planning and budgeting required by this section and ss. 229.555 and 237.041. This system of school improvement and education accountability shall include, but not be limited to, the following:

(a) School improvement plans.—Annually approve and require implementation of a new, amended, or continuation school improvement plan for each school in the district. Such plan shall be designed to achieve the state education goals and student performance standards pursuant to ss. 229.591(3) and 229.592, shall be based on a needs assessment, and shall include school progress, goals, indicators of student progress, strategies, and evaluation procedures, including adequate measures of individual student performance. Each school shall develop its initial individual school improvement plan to be submitted for approval during the 1992-1993 school year and shall implement the initial plan as approved beginning with the 1993-1994 school year.

(b) Approval process.—Develop a process for approval of a school improvement plan presented by an individual school and its advisory council. In the event a board does not approve a school improvement plan after exhausting this process, the Florida Commission on Education Reform and Accountability shall be notified of the need for assistance.

(c) Compliance and conflict resolution procedures.—Implement procedure and process to be followed for resolving issues at the school advisory council, school, and district levels before notifying the Florida Commission on Education Reform and Accountability of the dispute. School boards are encouraged to involve members of school advisory councils in the development of a conflict resolution procedure. School boards, however, are the ultimate and responsible authorities at the district level for resolving conflicts.

(d)~~(c)~~ Assistance and intervention.—Develop a 3-year plan of increasing individualized assistance and intervention for each school that does not meet or make adequate progress, based upon the recommendations of the commission, as defined pursuant to statute and State Board of Education rule, toward meeting the goals and standards of its approved school improvement plan.

(e)~~(d)~~ After 3 years.—Notify the Florida Commission on Education Reform and Accountability and the State Board of Education in the event any school does not make adequate progress toward meeting the goals and standards of a school improvement plan by the end of 3 consecutive years of district assistance and intervention and proceed according to guidelines developed pursuant to statute and State Board of Education rule.

(f)~~(e)~~ Public disclosure.—Provide information regarding performance of students and educational programs as required pursuant to s. 229.555, and, beginning with the 1994-1995 school year, implement a new system of school reports as required by statute and State Board of Education rule.

(g)~~(f)~~ School improvement funds.—Provide funds to schools for developing and implementing school improvement plans. Such funds shall include those funds appropriated for the purpose of school improvement pursuant to s. 24.121(5)(c).

(h)~~(g)~~ Feedback report.—Develop a "feedback report" on the progress of implementing and maintaining a system of school improvement and education accountability established in s. 229.592(2). The report shall be submitted to the Florida Commission on Education Reform and Accountability by July 1, 1992, and annually thereafter. The report shall include, but not be limited to, information pertaining to the accuracy of data collection and analysis, the ability of the Department of Education to assist school boards in emphasizing reporting on individual school improvement and progress while minimizing comparisons between schools, the effectiveness of training and technical assistance provided by the Department of Education, and the effectiveness of the waiver process established in s. 229.592(6); and recommendation for improvement.

Section 13. Subsection (6) of section 230.32, Florida Statutes, is amended to read:

230.32 General powers of superintendents.—The superintendent shall have the authority, and when necessary for the more efficient and adequate operation of the district school system, the superintendent shall exercise the following powers:

(6) PERFORM DUTIES AND EXERCISE RESPONSIBILITIES.—Perform such duties and exercise such responsibilities as are assigned to him by law and by regulations of the state board, *including the enforcement of provisions of statute and rule related to Blueprint 2000.*

Section 14. Section 231.085, Florida Statutes, is amended to read:

231.085 Duties of principals.—A district school board shall employ, through written contract, public school principals who shall supervise the operation and management of the schools and property as the board determines necessary. Each principal shall perform such duties, *including the enforcement of provisions of statute and rule related to Blueprint 2000,* as may be assigned by the superintendent pursuant to the rules of the school board. Such rules shall include, but not be limited to, rules relating to administrative responsibility, instructional leadership of the educational program of the school to which the principal is assigned, submission of personnel recommendations to the superintendent, administrative responsibility for records and reports, administration of corporal punishment, and student suspension. Each principal shall provide leadership in the development or revision and implementation of a school improvement plan pursuant to s. 230.23(18).

Section 15. Subsection (3) of section 236.13, Florida Statutes, 1994 Supplement, is amended to read:

236.13 Expenditure of funds by school board.—All state funds apportioned to the credit of any district shall constitute a part of the district school fund of that district and shall be budgeted and expended under authority of the school board of that district subject to the provisions of law and regulations of the state board.

(3) Funds expended from school nonrecurring incentives or bonus type state or federal funded programs based on performance outcomes~~, such as those provided for in s. 236.1228 for the accountability program,~~ may not be used for measuring compliance with state or federal maintenance of effort, supplanting, or comparability standards.

Section 16. Paragraph (d) of subsection (5) of section 24.121, Florida Statutes, is amended to read:

24.121 Allocation of revenues and expenditure of funds for public education.—

(5)

(d) ~~Beginning July 1, 1993,~~ No funds shall be released for any purpose from the Educational Enhancement Trust Fund to any school district in which one or more schools do not have an approved school improvement plan pursuant to s. 230.23(18) *by August 15 of each year.*

Section 17. *Sections 228.088, 236.0873, 236.092, and 236.1228, Florida Statutes, and paragraph (b) of subsection (2) of section 232.2468, Florida Statutes, are hereby repealed.*

Section 18. Paragraph (d) of subsection (6) of section 230.23, Florida Statutes, 1994 Supplement, is amended to read:

(d) Code of student conduct.—Adopt a code of student conduct for elementary schools and a code of student conduct for secondary schools and distribute the appropriate code to all teachers, school personnel, students, and parents or guardians, at the beginning of every school year. A district may compile the code of student conduct for elementary schools and the code of student conduct for secondary schools in one publication and distribute the combined codes to all teachers, school personnel, students, and parents or guardians at the beginning of every school year. Each code of student conduct shall be developed by the school board; elementary or secondary school teachers and other school personnel, including school administrators; students; and parents or guardians. The code of student conduct for elementary schools shall parallel the code for secondary schools. Each code shall be organized and written in language which is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory councils, and parent and teacher associations. Each code shall be based on the rules governing student conduct and discipline adopted by the school board and be made available in the student handbook or similar publication. Each code shall include, but not be limited to:

1. Consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function or for the illegal use, sale, or possession of controlled substances as defined in chapter 893.

2. Procedures to be followed for acts requiring discipline, including corporal punishment.

3. An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

4. Notice that illegal use, possession, or sale of controlled substances, as defined in chapter 893, or possession of electronic telephone pagers, by any student while such student is upon school property or in attendance at a school function is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

5. Notice that the possession of a firearm, a knife, a weapon, or an item which can be used as a weapon by any student while the student is on school property or in attendance at a school function is grounds for disciplinary action and may also result in criminal prosecution.

6. Notice that violence against any school district personnel by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

7. Notice that violation of school board transportation policies, including disruptive behavior on a school bus or at a school bus stop, by a student is grounds for suspension of the student's privilege of riding on a school bus and may be grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

8. Notice that violation of the school board's sexual harassment policy by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

9. Policies to be followed for the assignment of violent or disruptive students to an alternative educational program.

10. Notice that any student who is determined to have brought a firearm, as defined in Section 921 of Title 18 of the United States Code, to school, to any school function, or on any school-sponsored transportation will be expelled, with or without continuing educational services consistent with state and federal laws regarding students with disabilities, from the student's regular school for a period of not less than 1 full year and referred for criminal prosecution. School boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. Superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the school board to modify the requirement if determined to be in the best interest of the student and the school system.

Section 19. Subsection (1) of section 231.261, Florida Statutes, 1994 Supplement, is amended to read:

231.261 Education Practices Commission; organization.—

(1) There is created the Education Practices Commission, to consist of *15* ~~13~~ members, including *7* ~~5~~ teachers, 5 administrators, and 3 lay citizens (of whom 2 shall be former school board members), appointed by the State Board of Education from nominations by the Commissioner of Education and subject to Senate confirmation. Prior to making nominations, the commissioner shall consult with the teaching and other involved associations in the state. In making nominations, the commissioner shall attempt to achieve equal geographical representation, as closely as possible.

(a) A teacher member, in order to be qualified for appointment:

1. Must be certified to teach in the state.

2. Must be a resident of the state.

3. Must have practiced the profession in this state for at least 5 years immediately preceding the appointment.

(b) A school administrator member, in order to be qualified for appointment:

1. Must have an endorsement on the teaching certificate in the area of school administration or supervision.

2. Must be a resident of the state.

3. Must have practiced the profession as an administrator for at least 5 years immediately preceding the appointment.

(c) The lay members must be residents of the state.

Section 20. Present paragraph (s) of subsection (1) of section 236.081, Florida Statutes, 1994 Supplement, is redesignated as paragraph (t), and a new paragraph (s) is added to that subsection to read:

236.081 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(s) Extended-school-year program.—It is the intent of the Legislature that students be provided additional instruction by extending the school year to 210 days or more. Districts may apply to the Commissioner of Education for funds to be used in planning for implementing an extended-school-year program. The Department of Education shall recommend to the Legislature the policies necessary for full implementation of an extended school year.

Section 21. *Legislative intent.—*

(1) The Legislature recognizes that parental involvement is critical to a child's success in education. Further, the Legislature recognizes the value of an educational system that provides numerous and meaningful options for students. The Legislature declares that choice in public school will:

(a) Further cultivate constructive competition.

(b) Serve as an impetus for academic improvement.

(c) Foster greater accountability within the school system.

(2) It is the intent of the Legislature that school districts provide a variety of programs that afford parents and students the opportunity to choose a school best suited to the needs of the individual student. Many school districts are responding to individual needs with expanded options for students, including magnet schools, alternative schools, special programs, advanced placement, and dual enrollment. In addition to these programs, the Legislature intends that school districts empower parents of students who are enrolled in public schools by giving parents the opportunity to express their preferences for school assignments. Therefore, it is the intent of the Legislature that school districts design and implement plans that allow for school choice and are tailored to the individual needs of their communities.

Section 22. *Public school parental choice.—*

(1) As used in this section, "controlled open enrollment" means a public education delivery system that allows school districts to make student school assignments using parents' indicated preferential school choice as a significant factor.

(2) Beginning with the 1996-1997 school year, each district school board shall offer controlled open enrollment within the public schools. The controlled open enrollment program shall be offered in addition to the existing choice programs such as magnet schools, alternative schools, special programs, advanced placement, and dual enrollment.

(3) Each district school board shall develop a controlled open enrollment plan which describes the implementation of subsection (2).

(4) School districts shall adhere to federal desegregation requirements. No controlled open enrollment plan that conflicts with federal desegregation orders shall be implemented.

(5) The plan shall give consideration to:

(a) An application process required to participate in the controlled open enrollment program.

(b) A process that allows parents to declare school preference.

(c) A lottery procedure used by the school district to determine student assignment.

(d) An appeals process for hardship cases.

(e) The procedures to maintain socio-economic, demographic, and racial balance.

(f) The availability of transportation.

(g) A process that promotes strong parental involvement, including the designation of a parent liaison.

(h) A strategy that establishes a clearinghouse of information designed to assist parents in making informed choices.

(6) Plans shall be submitted to the Commissioner of Education by June 30, 1996. The Commissioner of Education shall develop an annual report on the status of school choice and deliver the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives at least 90 days prior to the convening of the regular session of the Legislature.

Section 23. *Charter schools.—*

(1) AUTHORIZATION.—The creation of charter schools is hereby authorized. Charter schools shall be part of the state's program of public education.

(2) PURPOSE.—The purpose of this section shall be to:

(a) Improve student learning.

(b) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as academically low achieving.

(c) Encourage the use of different and innovative learning methods.

(d) Increase choice of learning opportunities for students.

(e) Establish a new form of accountability for schools.

(f) Require the measurement of learning outcomes and create innovative measurement tools.

(g) Make the school the unit for improvement.

(h) Create new professional opportunities for teachers, including the opportunity to own the learning program at the school site.

(3) FORMATION.—Charter schools may be formed either:

(a) By creating a new school. A proposal for a new charter school may be made by an individual, teachers, parents, a group of individuals, a for-profit corporation, or a not-for-profit corporation.

(b) By converting an existing school to charter status. In the case of an existing public school, the proposers shall be the principal, teachers, and/or parents at the school.

A private school, parochial school, or home education program is not eligible for charter school status.

(4) SPONSOR.—

(a) The organizers of a charter school may apply to, and the school may be sponsored by, any of the following:

1. The district school board.

2. The State Board of Education.

3. The Board of Regents.

(b) The district school board shall have the first right of refusal. Within 60 days a decision to deny or accept the charter application shall be made. The entity applying for the charter may then apply to other sponsors. If a district school board denies a charter, the school board shall provide a written description of the reasons for the denial to the applicant. The applicant must include this document in any subsequent application made to alternate sponsors.

(c) A proposal for a charter school shall be approved by majority vote of the sponsoring board to which the application is made.

(d) The sponsor shall accept the responsibility to monitor and review the charter school in its progress towards the goals established in the charter school agreement.

(e) The sponsor shall accept the responsibility to monitor the flow of cash and disbursements to the charter school.

(5) NUMBER OF SCHOOLS.—With the exception of developmental research schools, the number of charter schools shall be limited to up to five charter schools in school districts with 50,000 or more students and no more than two charter schools in school districts with fewer than 50,000 students.

(6) ELIGIBLE STUDENTS.—

(a) Charter schools shall be open to any student residing in the school district in which the charter school is located.

(b) The school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such case, all applicants shall have an equal chance of being admitted through a random selection process.

(c) A charter school may elect to specialize in:

1. Students within an age group or grade level.

2. Students considered at risk.

(d) A charter school shall not limit admission to students on the basis of intellectual ability, measure of achievement, aptitude, or athletic ability.

(7) LEGAL ENTITY.—A charter school, new or existing, shall organize as a separate legal entity under one of the forms of organization available under the laws of the state, including, but not limited to, nonprofit, cooperative, or partnership. For the purposes of collective bargaining and membership in the Florida Retirement System, a charter school shall be considered a public employer, and employees of the char-

ter school shall be considered public employees, except as provided in paragraph (12)(c). As public employees, charter school employees shall be compulsory members of the Florida Retirement System. Such employees shall bargain collectively as a separate bargaining unit.

(8) REQUIREMENTS.—

(a) A charter school shall not be affiliated with a nonpublic sectarian school or religious institution. A school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations.

(b) A charter school shall admit students as provided in subsection (6).

(c) A charter school shall be accountable to its sponsor for performance as provided in subsection (9).

(d) A charter school shall not charge tuition or fees, except those fees normally charged by other public schools.

(e) A charter school shall meet all applicable state and local health, safety, and civil rights requirements.

(f) A charter school shall not violate the anti-discrimination provisions of s. 228.2001, Florida Statutes.

(g) A charter school shall be subject to an annual financial audit in a manner similar to that of a school district.

(9) CHARTER DOCUMENT.—The major issues involving the operation of a charter school shall be considered in advance and written into the charter document, which shall be signed by the school and the sponsor following a public hearing to ensure community input.

(a) The school and the sponsor shall come to a written agreement on the following:

1. The education program, the school's mission, the students to be served, the ages and grades to be included, and the focus of the curriculum.

2. The current baseline standard of achievement and the outcomes to be achieved and the method of measurement that will be used.

3. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the charter school. Students in grades 4, 7, and 10 in charter schools must take the student achievement test established by the Department of Education.

4. In secondary charter schools, a method for determining that a student has met the competencies for graduation.

5. A method for resolving conflicts.

6. Authorization to allow the sponsor to monitor and review on behalf of the State Board of Education in regard to outcomes.

7. The admissions procedures and dismissal procedures.

8. The ways by which the school will achieve a racial/ethnic balance reflective of the community it serves.

9. How the school will be insured.

10. The term of the agreement, not to exceed 3 years, which shall provide for cancellation of the charter school agreement if insufficient progress has been made in attaining the student achievement objectives of the charter school plan and if it is not likely that such objectives can be achieved before expiration of the agreement.

11. The facilities to be used and their location.

12. The qualifications to be required of the teachers.

13. The governance structure of the school.

14. A timetable for implementing the charter school plan, which addresses the implementation of each element thereof and the date by which the charter school agreement shall be awarded in order to meet this timetable.

(b) In addition, the sponsor shall require that the school include, as an addendum to the charter document, a plan covering the following items, although the school and the sponsor need not reach agreement on the terms of the plan for these items:

1. The management and administration of the school.

2. In the case of an existing school being converted to charter status, alternative arrangements for current students who choose not to attend the school and for current teachers who choose not to teach in the school after conversion.

3. The instructional methods to be used.

4. Any distinctive instructional techniques to be employed.

5. Internal financial controls.

(c) Charter school agreements may be renewed in increments of 1, 2, or 3 school years by a mutual agreement of the parties.

(d) A charter school agreement may be modified during its initial term or any renewal term on the recommendation of the sponsor and the approval of both parties to the agreement.

(e) Reports on the progress of the charter school shall be made annually to the State Board of Education, the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives. This information shall contain at least the following information:

1. The charter school's progress towards achieving the goals outlined in its charter.

2. Comparative data of student progress in the charter school and existing public schools.

3. Levels of parental involvement.

4. Financial records of the charter school, including revenues and expenditures.

5. Salary and benefit levels of charter school employees.

6. Student demographics, including, but not limited to, ratio of free to reduced-price lunch particpants' ethnicity.

(f) A sponsor shall ensure that the charter school plan is innovative and consistent with the goals of Blueprint 2000.

(10) CAUSES FOR NONRENEWAL OR TERMINATION.—

(a) At the end of a term, the sponsor may choose not to renew the agreement on any of the following grounds:

1. Failure to meet the requirements for student performance stated in the agreement.

2. Failure to meet generally accepted standards of fiscal management.

3. Violation of law.

4. Other good cause shown.

(b) During the term of an agreement, the sponsor may act to terminate the agreement on any of the grounds listed in paragraph (a). A charter may be terminated immediately and the operation of the school assumed by the district school board for good cause or if the district school board determines that the health, safety, or welfare of the students is threatened.

At least 60 days prior to renewing or terminating a contract, the sponsor shall notify the governing body of the school of the proposed action in writing. The notice shall state in reasonable detail the grounds for the proposed action and that the school's governing body may request in writing an informal hearing before the sponsor within 14 days of receiving the notice.

(c) When an agreement is not renewed or is terminated, the school shall be dissolved under the provisions of law under which the school was organized, and any unencumbered funds from the charter school shall revert to the district school board.

(d) If an agreement is not renewed or is terminated, a student who attended the school may apply to, and shall be enrolled in, another public school. Normal application deadlines shall be disregarded under such circumstances.

(11) EXEMPTION FROM STATUTES AND RULES.—A charter school shall operate in accordance with its charter and shall be exempt from all statutes of the Florida School Code, except those pertaining to civil rights and student health, safety, and welfare, or otherwise required by this act. A charter school shall not be exempt from the following statutes: s.286.011, relating to public meetings and records, public inspection, and penalties; and chapter 119, relating to public records.

~~EXEMPTION FROM STATUTES AND RULES.—Except as provided in this section, a charter school shall be exempt from all statutes and rules applicable to a district school board or school district, although it may elect to comply with one or more provisions of statutes or rules. A charter school shall not be exempt from the following statutes: s. 286.011, Florida Statutes, relating to public meetings and records, public inspection, and penalties; and chapter 119, Florida Statutes, relating to public records.~~

(12) TEACHERS.—

(a) A charter school shall select its teachers and the teachers shall select the school.

(b) Employees of a charter school shall have the right to choose not to collectively bargain.

(c) The teachers may choose to be part of a professional group that subcontracts with the charter school to operate the instructional program under the auspices of a partnership or cooperative that they collectively own. Under this arrangement, the teachers would not be public employees.

(d) Teachers leaving a current position in a public school district to teach in a charter school may take leave to teach upon the approval of the district school board. While on leave, they shall retain their seniority position and may continue to be covered by the benefit programs of the school district in which they had been working, if the charter school and the school district agree to this arrangement and its financing.

(e) Teachers employed by a charter school shall be certified as required by s. 231.17, Florida Statutes. Charter schools may employ or contract with skilled selected noncertified personnel to provide instructional services or to assist instructional staff members as teacher aides, in the same manner as district school boards. The qualifications of teachers shall be disclosed to parents.

(f) A charter school must employ or contract with employees who have been fingerprinted as provided in s. 231.02, Florida Statutes.

(13) REVENUE.—Students enrolled in charter schools shall be funded by the state as if they are in a basic program or a special program, the same as students enrolled in noncharter schools operated by the district school board.

(a) Each charter school shall report its student enrollment to the district school board. The district school board shall include each charter school's enrollment in the district's report of student enrollment as required under s. 236.081, Florida Statutes.

(b) In determining the annual appropriation for public schools, the student enrollment in charter schools and noncharter schools operated by the district school board shall be used to calculate the district's total potential revenue per student allocation.

(c) The agreement for funding students enrolled in a charter school shall be the districtwide expenditure rate per full-time equivalent student (FTE) in comparable basic and special programs. The FTE expenditure rate shall be the total program cost from the district general fund and shall be determined from the school and district cost report required under s. 237.34, Florida Statutes.

(d) Transportation of charter school students shall be provided by the charter school consistent with the requirements of chapter 234, F.S. The governing body of the charter school may provide transportation through an agreement or contract with the district school board, a private provider, or with parents. The charter school shall ensure that transportation is not a barrier to equal access for all students.

~~If the agreement provides for the district school board to provide transportation for students enrolled in charter schools, the students shall be included and funded in the school district's student transportation program. The charter school shall assure that transportation is not a barrier to equal access for all students. The charter school and the school board shall negotiate a percentage, not below 60 percent, of transportation funding per FTE student that the school district receives for the purpose of charter school transportation funding.~~

(e) If the district school board is providing programs as services to students funded by federal funds, any eligible students enrolled in charter schools in the district shall be provided federal funds for the same level of service provided students in the schools operated by the district school board.

(f) School district indirect costs relating to a charter school shall be limited to not more than 5 percent.

(g) School boards shall make every effort to ensure that charter schools receive timely and efficient reimbursement.

(14) IMMUNITY.—For the purposes of tort liability, the governing body and employees of a charter school shall be governed by s. 768.28, Florida Statutes.

(15) LENGTH OF SCHOOL YEAR.—A charter school shall provide instruction for at least the number of days required by law for public schools, and may provide instruction for additional days.

(16) FACILITIES.—

(a) A school district may lease space or sell services to a charter school. A charter school may lease space or secure services from another public body, nonprofit organization, private organization, or individual.

(b) A charter school shall utilize facilities which comply with the State Uniform Building Code for Public Educational Facilities Construction adopted pursuant to s. 235.26, Florida Statutes, or with applicable state minimum building codes pursuant to chapter 553, Florida Statutes, and state minimum fire protection codes pursuant to s. 633.025, Florida Statutes, as adopted by the authority in whose jurisdiction the facility is located.

(17) INITIAL COSTS.—A sponsor may authorize a charter school before the applicant has secured space, equipment, or personnel, if the applicant indicates authorization is necessary for it to raise working capital.

(18) INFORMATION.—The Department of Education shall disseminate information to the public, directly and through sponsors, both on how to form and operate a charter school and on how to enroll in charter schools once they are created. This information shall include a standard application format which shall include the information specified in subsection (9). This application format may be used by chartering entities.

(19) GENERAL AUTHORITY.—A charter school shall not levy taxes or issue bonds secured by tax revenues.

(20) AREA VOCATIONAL-TECHNICAL CENTERS.—The legislature finds that the establishment of area vocational-technical centers as charter technical institutes can assist in promoting advances and innovations in workforce preparation. The purpose of a charter technical institute shall be to provide a learning environment that better serves the needs of a specific population group or a specific group of occupations thus promoting diversity and choice within Florida's public postsecondary technical education community.

(a) The sponsors of a charter technical institute may be a school board, which will have first right of refusal, the Board of Regents, the State Board of Education, or the Jobs in Education Partnership of Enterprise Florida.

(b) A charter technical institute is authorized to offer vocational credit instruction, is not a degree-granting institution, is subject to the articulation agreement established under s. 239.109, Florida Statutes, and must not be duplicative of programs available through a community college.

(c) The following requirements of a charter technical institute and its sponsor shall be addressed in the manner prescribed in the subsections listed: (1) Authorization; (3)(a) Formation; (4)(b), (c), (d), (e) Sponsor; (6)(a), (b), (c), (d) Eligible Students; (7) Legal Entity; (8)(a), (b), (c), (d), (e), (f), (g) Requirements; (9)(a)1., excluding "grades to be included", 2., 3., excluding reference to "student achievement tests in grades 4, 7, and 10", 5., 6., 7., 8., 9., 10., 11., 12., 13., 14., (b), (c), (d), (e),

(f); (10) Causes for nonrenewal or termination; (11) Exemption from statutes and rules; (12) Teachers; (14) Immunity; (16) Facilities; (17) Initial costs; (18) Information; (19) General authority.

(d) Charter technical institutes shall be exempt from the restrictions on the number of charter schools listed in sub-section (5).

(e) Charter technical institutes may be created by converting an existing area vocational-technical center. The organizers may be the same as those in sub-section (3)(a), with the inclusion of participation of parents, alumni, instructors or the director of the center.

(f) A charter technical institute shall operate year round and may charge student tuition fees consistent with authority granted in the charter.

(g) Funding of a charter technical institute during the first year of operation shall be calculated at 95% of the state, local and categorical funds available to a school district for an area vocational-technical center. In subsequent years, the initial funding level shall be used as the base to be adjusted annually by the price level increase and workload issues identified in the annual Appropriations Act.

(21) REVIEW.—The Legislature shall review the operation of charter schools during the 2000 Legislative Session.

Section 24. Subsection (10) of section 121.021, Florida Statutes, 1994 Supplement, is amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(10) "Employer" means any agency, branch, department, institution, university, institution of higher education, *charter school,* or board of the state, or any county agency, branch, department, board, district school board, or special district of the state, or any city of the state which participates in the system for the benefit of certain of its employees.

Section 25. This act shall take effect July 1, 1995.

And the title is amended as follows:

Strike the entire title and insert: A bill to be entitled An act relating to education; amending s. 230.2303, F.S., relating to the Florida First Start Program; revising provisions relating to eligibility; providing for a sliding fee scale for certain children; requiring specified coordination; deleting an obsolete provision; amending s. 230.2305, F.S., relating to the prekindergarten early intervention program; revising provisions relating to eligibility; providing requirements for school district plans; revising evaluation procedures; deleting a restriction on use of funds for transportation of students; restricting use of funds for certain capital outlay purposes; providing for coordination of early intervention programs with district interagency coordinating councils on early childhood services; saving ss. 230.2303 and 230.2305, F.S., from repeal; creating the "Florida Maximum Class Size Goals Act"; providing goals relating to class size in certain grade levels; authorizing funds for implementation; providing for the review of the Florida School code; amending s. 229.512, F.S.; providing duties of the Commissioner of Education; relating to school improvement and education accountability; amending s. 229.58, F.S.; revising provisions relating to school advisory councils and deleting district advisory councils excepting those existing in 1994-95; amending s. 229.591, F.S.; revising state education goals; amending s. 229.592, F.S.; revising provisions relating to statutory abeyances and waivers; correcting cross references and conforming language relating to statutes repealed after 3 years of abeyance; amending s. 229.594, F.S.; providing a duty of the Florida Commission on Education Reform and Accountability; amending s. 230.23, F.S.; providing district school board duties; amending s. 230.32, F.S.; providing responsibilities of superintendents; amending s. 231.085, F.S.; providing duties of principals; amending s. 236.13, F.S.; correcting a cross reference; amending s. 24.121, F.S.; revising provisions relating to allocation of lottery funds; repealing ss. 228.088, 236.0873, 236.092, and 236.1228, F.S., relating to high school security programs, school volunteer program allocations, mathematics, science, and computer learning laboratories, and accountability program grants; repealing s. 232.2468(2)(b), F.S., relating to certain reports, to conform; requiring notice relating to expulsion for possession of a firearm; amending s. 231.261, F.S.; revising the membership of the Education Practices Commission; amending s. 236.081, F.S.; revising provisions relating to computation of the basic amount to be allocated to each school district for operation of schools; providing for an extended-school-year program; providing legislative intent relating to educational choice; requiring district school boards to offer controlled open enrollment for students in public schools; providing for district school board choice plans and programs; providing for implementation; requiring a report; authorizing the creation of charter schools and providing purpose; providing formation and sponsorship; limiting the number of charter schools; providing student eligibility; providing organization as a legal entity; providing requirements of charter schools and charter documents; providing causes for nonrenewal or termination of a charter agreement; providing exemption from statutes and rules; providing rights and qualifications of teachers; providing funding of charter school students; providing immunity; providing length of school year; providing facility requirements; providing initial costs; requiring dissemination of information; prohibiting levy of taxes and issuance of bonds; requiring legislative review; authorizing the creation of charter technical institutes; amending s. 121.021, F.S.; redefining "employer" within the Florida Retirement System to include charter schools; providing an effective date.

House Amendment 2 (with Title Amendment) to House Amendment 1—On page 40, line 18, through page 42, line 9, strike all of said lines and insert:

(20) REVIEW—The Legislature shall review the

And the title is amended as follows:

On page 45, lines 26 and 27, strike all of said lines and insert: legislative review; amending s.

Senator Sullivan moved the following amendment:

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

Section 1. Subsections (3) and (5) and paragraph (i) of subsection (4) of section 230.2303, Florida Statutes, 1994 Supplement, are amended to read:

230.2303 Florida First Start Program.—

(3) PLAN.—Each school board may submit to the Commissioner of Education a plan for conducting a Florida First Start Program. Each plan and subsequent amended plan shall be developed in cooperation with the district interagency coordinating council on early childhood services established pursuant to s. 230.2305 and the Interagency Prekindergarten Council for Children with Disabilities, and shall be approved by the commissioner. To be eligible for state funding pursuant to this section, a district school board's plan shall be designed to serve children from birth to 3 years of age who are disabled or at risk of future school failure *or who are economically disadvantaged* and to serve their parents. For the purposes of this section, the term "children with disabilities or at risk of future school failure" includes any child who has one or more of the characteristics described in s. 411.202(8). *An economically disadvantaged child is eligible as a child whose family's income is at or below 100 percent of the federal poverty level or whose family's income level impairs the development of the child. A district school board's plan shall establish a sliding fee scale for use after children from the economically disadvantaged category have been assisted.*

(4) PLAN APPROVAL.—To be considered for approval, each plan, or amendment to a plan, shall be based on current research findings regarding the growth and development of infants and young children and shall include the following program components:

(i) Coordination with district prekindergarten early intervention programs, *Healthy Start, Even Start Family Literacy, Head Start, adult education, Project Independence, the Job Training Partnership Act, the teenage parent program, full-service schools, and any other programs* ~~and the Florida Progress in Elementary Education Program~~.

~~(5) EVALUATION.—The commissioner shall conduct or contract for a longitudinal study of the effectiveness of the program, including the Florida First Start model schools for coordinated children's services. This study shall include, but not be limited to, longitudinal assessment of the children's behavior, growth and development, achievement, and success in school, and the parents' continued involvement with the education of their children. The interim results of this evaluation shall be reported annually to the Legislature on or before January 1, and a final report to the Legislature shall be due on or before January 1, 1995.~~

Section 2. Subsections (2), (3), and (6) and paragraphs (a) and (b) of subsection (9) of section 230.2305, Florida Statutes, 1994 Supplement, are amended to read:

230.2305 Prekindergarten early intervention program.—

(2) PROGRAM.—There is hereby created the prekindergarten early intervention program for children who are 3 and 4 years of age. A prekindergarten early intervention program shall be administered by a district school board and shall receive state funds pursuant to subsection (9). Prekindergarten early intervention programs shall be implemented and conducted by school districts pursuant to a plan developed and approved as provided in this section. School district participation in the prekindergarten early intervention program shall be at the discretion of each school district.

(a) At least 75 percent of the children projected to be served by the district program shall be economically disadvantaged 4-year-old children, including migrant children. Other children projected to be served by the district program may include any of the following up to a maximum of 25 percent of the total number of children served:

1. Three-year-old and four-year-old children who are referred to the school system who may not be economically disadvantaged but who are abused, prenatally exposed to alcohol or harmful drugs, or from foster homes, or who are marginal in terms of Exceptional Student Education placement.

2. Three-year-old children and four-year-old children who may not be economically disadvantaged but who are eligible students with disabilities and served in a specific part-time or combination of part-time exceptional student education programs with required special services, aids, or equipment and who are reported for funding part-time in the Florida Education Finance Program as exceptional students. These students may be funded from prekindergarten early intervention program funds the portion of the time not funded by the Florida Education Finance Program for the actual instructional time or one full-time equivalent student membership, whichever is the lesser. These part-time students with disabilities shall be counted toward the 25-percent student limit based on full-time equivalent student membership funded part-time by prekindergarten early intervention program funds. Also, 3-year-old or 4-year-old eligible students with disabilities who are reported for funding in the Florida Education Finance Program in a full-time or an authorized combination of full-time and part-time exceptional student programs as provided in s. 236.081(1)(c) may be mainstreamed in the prekindergarten early intervention program if such programming is reflected in the student's individual educational plan; if required special services, aids, or equipment are provided; and if there is no operational cost to prekindergarten early intervention program funds. These full-time exceptional students shall not count against the 75-percent or 25-percent student limit as stated in this paragraph.

3. Economically disadvantaged 3-year-old children served in groups.

4. Economically disadvantaged 3-year-old children served at home through home visitor programs and intensive parent education programs.

5. Children who meet federal and state requirements for eligibility for the migrant preschool program but who do not meet the criteria of "economically disadvantaged" as defined in paragraph (b), who shall not pay a fee.

6. After the groups listed in subparagraphs 1., 2., 3., and 4. have been served, 3-year-old and 4-year-old children who are not economically disadvantaged and for whom a fee is paid for the children's participation.

(b) School districts which serve all eligible 4-year-old children may serve additional 3-year-old children in excess of the 25-percent student limit with the unused funds or may transfer any unused funds to the District Discretionary Lottery allocation for use in the district Florida Education Finance Program.

(c)~~(b)~~ *For purposes of this section,* an "economically disadvantaged" child shall be defined as a child eligible to participate in the free lunch program. Notwithstanding any change in a family's economic status or in the federal eligibility requirements for free lunch, a child who meets the eligibility requirements upon initial registration for the program shall be considered eligible *until such child enters kindergarten* ~~through the end of that school year~~. In order to assist the school district in establishing the priority in which children shall be served, the central agency for state-subsidized child care or the local service district of the Department of Health and Rehabilitative Services shall provide the school district with an updated list of 3-year-old and 4-year-old children residing in the school district who are on the waiting list for state-subsidized child care.

(3) PLANS.—Each district school board that chooses to participate in the prekindergarten early intervention program shall submit to the Commissioner of Education a plan for implementing and conducting a prekindergarten early intervention program. *Each district plan must contain a section which describes efforts to utilize state prekindergarten early intervention program funds provided to the district pursuant to this section to match federal child care resources. Such efforts should include specific measures for identifying children enrolled in the prekindergarten early intervention program whose families are eligible for Aid to Families with Dependent Children and must have child care either to participate in Project Independence or to accept or continue employment. As a part of the annual report required under subsection (8), the district shall provide to the Department of Education an analysis of its federal funds maximizing efforts which will include at a minimum the number of prekindergarten children found to meet these criteria and the amount of federal earnings realized.* Each plan or amended plan shall be developed in cooperation with the local interagency coordinating council on early childhood services pursuant to subsection *(10)* ~~(11)~~ and shall be approved by the commissioner. A district school board shall submit a plan or amended plan for planning and evaluating prekindergarten programs, implementing new services, enhancing existing early childhood, prekindergarten, or child care programs provided by public or nonpublic entities, or contracting for the provision of services or facilities. School boards are encouraged to include in their plans an explanation of the role of the prekindergarten early intervention program in the school district's effort to meet the first state education goal, readiness to start school, and the plan should include the utilization of public and private programs already in existence in the district, business-education partnerships, and preschool programs operated by vocational-technical schools, community colleges, and universities. A district school board plan shall identify the locations where services will be provided and may include public school property or other sites that meet state and local licensing requirements for child day care facilities or State Board of Education rules, except that sites shall be located to the maximum extent practicable so as to provide easy access by parents, especially working parents of economically disadvantaged children. When a district uses nonschool facilities or nonschool facility staff for the provision of services, a contract is required; when a district uses nonschool facilities and provides district instructional staff, a cooperative agreement is required. Unless the commissioner requests a revised plan, districts with plans approved subsequent to July 1, 1989, must submit only amendments to their initial plans to the commissioner by November 15 of each subsequent year.

(6) EVALUATION.—*Each school district shall be responsible for the ongoing monitoring and evaluation of the prekindergarten early intervention program to ensure that the program is meeting the state's minimum standards for performance. The department shall establish minimum performance standards which will include appropriate performance and achievement levels for participants in the program.* ~~The commissioner shall conduct or contract for a longitudinal study of the effectiveness of the prekindergarten early intervention program. This study shall include, but not be limited to, longitudinal assessment of the children's behavior, growth and development, achievement, and success in school and of the effects of parental involvement in the program on the children's progress. The interim results of this evaluation shall be reported annually to the Legislature on or before January 1 of each year, and a final report to the Legislature shall be due on or before January 1, 1995.~~

(9) FUNDING.—

(a) This section shall be implemented only to the extent that funding is available. State funds appropriated for the prekindergarten early intervention program may not be used for the construction of new facilities, the transportation of students, or the purchase of buses, but may be used for educational field trips which enhance the curriculum.

1. At least 70 percent of the total funds allocated to each school district pursuant to this section shall be used for implementing and conducting a prekindergarten early intervention program or contracting with other public or nonpublic entities for programs to serve eligible children. The maximum amount to be spent per child for this purpose shall be designated annually in the General Appropriations Act.

2. No more than 30 percent of the funds allocated to each school district pursuant to this section may be used to enhance existing public and nonpublic programs for eligible children, to provide before-school and after-school care for children served pursuant to this section, to remodel or renovate existing facilities pursuant to the provisions of chapter 235, to lease or lease-purchase facilities in accordance with subsection (3) of this section, to purchase classroom equipment to allow the implementation of the prekindergarten early intervention program, and to provide training for program teachers and administrative personnel employed by the school district and by agencies with which the school district contracts for the provision of prekindergarten services. *No funds shall be spent on major renovation or remodeling of facilities or lease-purchase of facilities until it can be shown that outside contracts for such services have been considered.*

3. Funds may also be used pursuant to subparagraphs 1. and 2. to provide the prekindergarten early intervention program for more than 180 school days.

(b) A minimum grant for each district shall be determined annually in the General Appropriations Act. The funds remaining after allocating the minimum grants shall be prorated based on an allocation factor for each district and shall be added to each district's minimum grant. The allocation factor shall be calculated as follows:

District percentage of state 3-year-old and 4-year-old children	×	1/4 +	District percentage of state free lunch students	× 3/4

The calculation of each district's allocation factor shall be based upon the official estimate of the total number of 3-year-old and 4-year-old children by school district and the official record of the Department of Education for K-12 student participation in the free lunch program by school district for the prior fiscal year.

Section 3. All state-funded early intervention programs shall coordinate with district interagency coordinating councils on early childhood services, pursuant to s 230.2305(10), Florida Statutes, and all federal early intervention programs, including Head Start, are encouraged to coordinate with such councils.

Section 4. Notwithstanding the provisions of chapters 89-101, 89-379, and 90-288, Laws of Florida, which provide for review and repeal, sections 230.2303 and 230.2305, Florida Statutes, shall not stand repealed on July 1, 1995, and shall continue in full force and effect as amended herein.

Section 5. (1) The Legislature finds that it is in the best interest of the students, teachers, and parents of students in the public school system to perform a thorough and intensive review of the Florida Statutes relating to education in order to produce better results with less waste of taxpayers' money.

(2) The Department of Education shall review chapters 228, 229, 230, 231, 232, 233, 234, 236, 237, 239, and 411, Florida Statutes, and shall submit a report and recommendations to the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the Senate and the House of Representatives by December 1, 1995. The review conducted by the Department of Education must identify and consider the relationship between each section of those chapters and other statutory requirements and the impact of a repeal of each section upon the operations, functions, and duties of the Department of Education and the school districts.

(3) It is the intent of the Legislature that chapters 228, 229, 230, 231, 232, 233, 234, 236, 237, 239, and 411, Florida Statutes, be reviewed, revised and reenacted in whole or in part prior to June 30, 1996. Should the Legislature be unable to review any chapter in whole or in part, those sections shall remain in full force and effect until June 30, 1997. Any sections of the designated chapters of the Florida Statutes not enacted or reenacted by the 1996 Legislature or the 1997 Legislature should be reviewed by June 30, 1997.

Section 6. Subsection (14) of section 229.512, Florida Statutes, is amended to read:

229.512 Commissioner of Education, general powers and duties.— The Commissioner of Education is the chief educational officer of the state, and he has the following general powers and duties:

(14) To implement *and enforce a Blueprint 2000 system* ~~a program~~ of school improvement and education accountability as provided by statute and State Board of Education rule which is based upon the achievement of the state education goals, recognizing the State Board of Education as the body corporate responsible for the supervision of the system of public education, the school board as responsible for school and student performance, and the individual school as the unit for education accountability; to arrange for the preparation, publication, and distribution of materials relating to the state system of public education which will supply information concerning needs, problems, plans, and possibilities; to prepare and publish annually reports giving statistics and other useful information pertaining to the state system of public education; ~~and~~ to have printed copies of school laws, forms, instruments, instructions, and regulations of the State Board of Education and to provide for the distribution of the same; and

Section 7. Subsection (1) of section 229.58, Florida Statutes, is amended to read:

229.58 ~~District and~~ School advisory councils.—

(1) ESTABLISHMENT.—

~~(a)~~ The school board shall establish an advisory council for each school in the district, and shall develop procedures for the election and appointment of advisory council members ~~who are appointed after July 1, 1993~~. *A majority of the members of each school advisory council shall be persons who are not employed by the school board at that school.* Each advisory council shall be composed of the principal and an appropriately balanced number of teachers, education support employees, students, parents, and other business and community citizens who are representative of the ethnic, racial, and economic community served by the school, provided that *area technical* ~~vocational technical~~ center and high school advisory councils shall include students, and *elementary,* middle, and junior high school advisory councils may include students. *Any school board that operates an area technical center may appoint alumni of the center to serve on the center advisory council in lieu of parents.* Council members representing teachers, education support employees, students, and parents shall be elected by their respective peer groups at the school in a fair and equitable manner as follows:

(a)~~1.~~ Teachers shall be elected by teachers.

(b)~~2.~~ Education support employees shall be elected by education support employees.

(c)~~3.~~ Students shall be elected by students.

(d)~~4.~~ Parents shall be elected by parents.

Business and other community members shall be selected by the school according to a procedure established by the school board. The school board shall review the membership composition of each advisory council. Should the school board determine that the membership elected by the school is not representative of the ethnic, racial, and economic community served by the school, the board shall appoint additional members to achieve proper representation. ~~Although schools should be strongly encouraged to establish school advisory councils, any school district that has a student population of 10,000 or fewer may establish a district advisory council which shall include at least one duly elected teacher from each school in the district.~~

School districts with a student population of 10,000 or fewer students who have district-level school advisory councils operating in the 1994-95 school year may continue the operation of such councils or they may create school level advisory councils as provided in this subsection.

For the purposes of school advisory councils ~~and district advisory councils~~, the term "teacher" shall include classroom teachers, certified student services personnel, and media specialists. For purposes of this paragraph, "education support employee" *as defined in s. 231.3605* means any person employed by a school ~~who is not defined as instructional or administrative personnel pursuant to s. 228.041 and whose duties require 20 or more hours in each normal working week~~.

~~(b) The school board may establish a district advisory council representative of the district and composed of teachers, students, parents, and other citizens or a district advisory council which may be comprised of representatives of each school advisory council. Recognized schoolwide support groups which meet all criteria established by law or rule may function as school advisory councils.~~

Section 8. Paragraph (f) of subsection (3) of section 229.591, Florida Statutes, is amended, and paragraph (h) is added to said subsection, to read:

229.591 Comprehensive revision of Florida's system of school improvement and education accountability.—

(3) EDUCATION GOALS.—The state as a whole shall work toward the following goals:

(f) Teachers and staff.—The schools, *districts, postsecondary institutions* ~~district~~, and state ensure professional teachers and staff.

(h) Parental involvement.—Communities, school boards, and schools provide opportunities for involving parents and guardians as active partners in achieving school improvement and education accountability. Standards for this goal shall be adopted during the 1995-1996 school year and shall be implemented no later than the 1996-1997 school year.

Section 9. Paragraph (e) of subsection (3) and paragraphs (a), (b), and (d) of subsection (6) of section 229.592, Florida Statutes, 1994 Supplement, are amended to read:

229.592 Implementation of state system of school improvement and education accountability.—

(3) COMMISSIONER.—The commissioner shall be responsible for implementing and maintaining a system of intensive school improvement and stringent education accountability.

(e) As co-chairman of the Florida Commission on Education Reform and Accountability, the commissioner shall appear before the appropriate committees of the Legislature annually in October to report and recommend changes in state policy necessary to foster school improvement and education accountability. The report shall reflect the recommendations of the Florida Commission on Education Reform and Accountability. Included in the report shall be a list of the schools for which school boards have developed assistance and intervention plans and an analysis of the various strategies used by the school boards. In the fall of 1992 and 1993, the commissioner shall report in writing to the public on the current status of the state's education system. School boards shall distribute this report to the parents of all pupils in the district. Beginning with the 1993-1994 school year and each school year thereafter, school reports shall be distributed pursuant to this paragraph and s. 230.23(18)*(f)* ~~(e)~~ according to guidelines adopted by the State Board of Education.

(6) EXCEPTIONS TO LAW.—To facilitate innovative practices and to allow local selection of educational methods during the time period required for careful deliberation by the Legislature and the Florida Commission on Education Reform and Accountability, the following time-limited exceptions shall be permitted:

(a) In the annual General Appropriations Acts, the Legislature may authorize exceptions to any laws pertaining to fiscal policies, including ss. 236.013 and 236 081, provided the intent is to give school districts increased flexibility and local control of education funds. If the General Appropriations Act does not contain a specific line-item appropriation or a specific listing within a line-item appropriation which provides funding for the programs established pursuant to the following statutes, the statute shall be held in abeyance for that fiscal year, and any approved plan for implementing said statute shall be null and void for said fiscal year: ss. 228.0855; 230.2215; 230 2305; 230.2318; 231.087; 231.613; 232.257; 233.0615, 233.0678; 234.021; ~~236.0873;~~ 236.083; ~~236.092;~~ 236.122; 236.1225; ~~236.1228,~~ and 239.401.

(b) ~~The methods and requirements of the following statutes shall be held in abeyance: ss. 228.088; and 229.57(4) and (5).~~ In determining which statutes and rules stand in the way of school improvement, the Florida Commission on Education Reform and Accountability shall consider the effect that holding the statutes listed in *paragraph* ~~paragraphs~~ (a) ~~and (b)~~ in abeyance has had on the school improvement process. It is the intent of the Legislature that statutes listed in *paragraph* ~~paragraphs~~ (a) ~~and (b)~~ be systematically repealed after being held in abeyance for 3 consecutive fiscal years.

(d) Notwithstanding the provisions of chapter 120 and for the purpose of implementing this subsection, the commissioner may waive State Board of Education rules adopted to implement statutes listed in paragraphs (a)~~, (b),~~ and (c), provided that the intent of each rule is met and the school board has submitted a written request to the commissioner for approval pursuant to this subsection.

Section 10. Paragraph (g) is added to subsection (2) of section 229.594, Florida Statutes, to read:

229.594 Powers and duties of the commission.—

(2) The commission shall:

(g) Develop and adopt a procedure to be followed for resolving complaints of noncompliance with the statutory and state board rule requirements of Blueprint 2000.

Section 11. Subsections (14) and (18) of section 230.23, Florida Statutes, 1994 Supplement, are amended to read:

230.23 Powers and duties of school board.—The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(14) ENFORCEMENT OF LAW AND RULES AND REGULATIONS.—Require that all laws and rules and regulations of the state board, *including the enforcement of provisions of statute and rule related to Blueprint 2000,* or of the school board are properly enforced.

(18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—Maintain a *Blueprint 2000* system of school improvement and education accountability as provided by statute and State Board of Education rule. This system of school improvement and education accountability shall be consistent with, and implemented through, the district's continuing system of planning and budgeting required by this section and ss. 229.555 and 237.041. This system of school improvement and education accountability shall include, but not be limited to, the following:

(a) School improvement plans.—Annually approve and require implementation of a new, amended, or continuation school improvement plan for each school in the district. Such plan shall be designed to achieve the state education goals and student performance standards pursuant to ss. 229.591(3) and 229.592, shall be based on a needs assessment, and shall include school progress, goals, indicators of student progress, strategies, and evaluation procedures, including adequate measures of individual student performance. Each school shall develop its initial individual school improvement plan to be submitted for approval during the 1992-1993 school year and shall implement the initial plan as approved beginning with the 1993-1994 school year.

(b) Approval process.—Develop a process for approval of a school improvement plan presented by an individual school and its advisory council. In the event a board does not approve a school improvement plan after exhausting this process, the Florida Commission on Education Reform and Accountability shall be notified of the need for assistance.

(c) Compliance and conflict resolution procedures.—Implement procedure and process to be followed for resolving issues at the school advisory council, school, and district levels before notifying the Florida Commission on Education Reform and Accountability of the dispute. School boards are encouraged to involve members of school advisory councils in the development of a conflict resolution procedure. School boards, however, are the ultimate and responsible authorities at the district level for resolving conflicts.

(d)~~(c)~~ Assistance and intervention.—Develop a 3-year plan of increasing individualized assistance and intervention for each school that does not meet or make adequate progress, based upon the recommendations of the commission, as defined pursuant to statute and State Board of Education rule, toward meeting the goals and standards of its approved school improvement plan.

(e)~~(d)~~ After 3 years.—Notify the Florida Commission on Education Reform and Accountability and the State Board of Education in the event any school does not make adequate progress toward meeting the goals and standards of a school improvement plan by the end of 3 consecutive years of district assistance and intervention and proceed according to guidelines developed pursuant to statute and State Board of Education rule.

(f)~~(e)~~ Public disclosure.—Provide information regarding performance of students and educational programs as required pursuant to s. 229.555, and, beginning with the 1994-1995 school year, implement a new system of school reports as required by statute and State Board of Education rule.

(g)~~(f)~~ School improvement funds.—Provide funds to schools for developing and implementing school improvement plans. Such funds shall include those funds appropriated for the purpose of school improvement pursuant to s. 24.121(5)(c).

(h)~~(g)~~ Feedback report.—Develop a "feedback report" on the progress of implementing and maintaining a system of school improvement and education accountability established in s. 229.592(2). The report shall be submitted to the Florida Commission on Education Reform and Accountability by July 1, 1992, and annually thereafter. The report shall include, but not be limited to, information pertaining to the accuracy of data collection and analysis, the ability of the Department of Education to assist school boards in emphasizing reporting on individual school improvement and progress while minimizing comparisons between schools, the effectiveness of training and technical assistance provided by the Department of Education, and the effectiveness of the waiver process established in s. 229.592(6); and recommendation for improvement.

Section 12. Subsection (6) of section 230.32, Florida Statutes, is amended to read:

230.32 General powers of superintendents.—The superintendent shall have the authority, and when necessary for the more efficient and adequate operation of the district school system, the superintendent shall exercise the following powers:

(6) PERFORM DUTIES AND EXERCISE RESPONSIBILITIES.—Perform such duties and exercise such responsibilities as are assigned to him by law and by regulations of the state board, *including the enforcement of provisions of statute and rule related to Blueprint 2000.*

Section 13. Section 231.085, Florida Statutes, is amended to read:

231.085 Duties of principals.—A district school board shall employ, through written contract, public school principals who shall supervise the operation and management of the schools and property as the board determines necessary. Each principal shall perform such duties, *including the enforcement of provisions of statute and rule related to Blueprint 2000,* as may be assigned by the superintendent pursuant to the rules of the school board. Such rules shall include, but not be limited to, rules relating to administrative responsibility, instructional leadership of the educational program of the school to which the principal is assigned, submission of personnel recommendations to the superintendent, administrative responsibility for records and reports, administration of corporal punishment, and student suspension. Each principal shall provide leadership in the development or revision and implementation of a school improvement plan pursuant to s. 230.23(18).

Section 14. Subsection (3) of section 236.13, Florida Statutes, 1994 Supplement, is amended to read:

236.13 Expenditure of funds by school board.—All state funds apportioned to the credit of any district shall constitute a part of the district school fund of that district and shall be budgeted and expended under authority of the school board of that district subject to the provisions of law and regulations of the state board.

(3) Funds expended from school nonrecurring incentives or bonus type state or federal funded programs based on performance outcomes~~, such as those provided for in s. 236.1228 for the accountability program,~~ may not be used for measuring compliance with state or federal maintenance of effort, supplanting, or comparability standards.

Section 15. Paragraph (d) of subsection (5) of section 24.121, Florida Statutes, is amended to read:

24.121 Allocation of revenues and expenditure of funds for public education.—

(5)

(d) ~~Beginning July 1, 1993,~~ No funds shall be released for any purpose from the Educational Enhancement Trust Fund to any school district in which one or more schools do not have an approved school improvement plan pursuant to s. 230.23(18) *by August 15 of each year.*

Section 16. Sections 228 088, 236.0873, 236.092, and 236.1228, Florida Statutes, and paragraph (b) of subsection (2) of section 232.2468, Florida Statutes, are hereby repealed.

Section 17. Paragraph (d) of subsection (6) of section 230.23, Florida Statutes, 1994 Supplement, is amended to read:

230.23 Powers and duties of school board.—The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(6) CHILD WELFARE.—Provide for the proper accounting for all children of school age, for the attendance and control of pupils at school, and for proper attention to health, safety, and other matters relating to the welfare of children in the following fields, as prescribed in chapter 232.

(d) Code of student conduct.—Adopt a code of student conduct for elementary schools and a code of student conduct for secondary schools and distribute the appropriate code to all teachers, school personnel, students, and parents or guardians, at the beginning of every school year. A district may compile the code of student conduct for elementary schools and the code of student conduct for secondary schools in one publication and distribute the combined codes to all teachers, school personnel, students, and parents or guardians at the beginning of every school year. Each code of student conduct shall be developed by the school board; elementary or secondary school teachers and other school personnel, including school administrators; students; and parents or guardians. The code of student conduct for elementary schools shall parallel the code for secondary schools. Each code shall be organized and written in language which is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory councils, and parent and teacher associations. Each code shall be based on the rules governing student conduct and discipline adopted by the school board and be made available in the student handbook or similar publication. Each code shall include, but not be limited to:

1. Consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function or for the illegal use, sale, or possession of controlled substances as defined in chapter 893.

2. Procedures to be followed for acts requiring discipline, including corporal punishment.

3. An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

4. Notice that illegal use, possession, or sale of controlled substances, as defined in chapter 893, or possession of electronic telephone pagers, by any student while such student is upon school property or in attendance at a school function is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

5. Notice that the possession of a firearm, a knife, a weapon, or an item which can be used as a weapon by any student while the student is on school property or in attendance at a school function is grounds for disciplinary action and may also result in criminal prosecution.

6. Notice that violence against any school district personnel by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

7. Notice that violation of school board transportation policies, including disruptive behavior on a school bus or at a school bus stop, by a student is grounds for suspension of the student's privilege of riding on a school bus and may be grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

8. Notice that violation of the school board's sexual harassment policy by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

9. Policies to be followed for the assignment of violent or disruptive students to an alternative educational program.

10. Notice that any student who is determined to have brought a firearm, as defined in Section 921 of Title 18 of the United States Code, to school, to any school function, or on any school-sponsored transportation will be expelled, with or without continuing educational services consistent with state and federal laws regarding students with disabilities, from the student's regular school for a period of not less than 1 full year and referred for criminal prosecution. School boards may assign

the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. Superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the school board to modify the requirement if determined to be in the best interest of the student and the school system.

Section 18. Subsection (1) of section 231.261, Florida Statutes, 1994 Supplement, is amended to read:

231.261 Education Practices Commission; organization.—

(1) There is created the Education Practices Commission, to consist of *15* ~~13~~ members, including *7* ~~5~~ teachers, 5 administrators, and 3 lay citizens (of whom 2 shall be former school board members), appointed by the State Board of Education from nominations by the Commissioner of Education and subject to Senate confirmation. Prior to making nominations, the commissioner shall consult with the teaching and other involved associations in the state. In making nominations, the commissioner shall attempt to achieve equal geographical representation, as closely as possible.

(a) A teacher member, in order to be qualified for appointment:

1. Must be certified to teach in the state.

2. Must be a resident of the state.

3. Must have practiced the profession in this state for at least 5 years immediately preceding the appointment.

(b) A school administrator member, in order to be qualified for appointment:

1. Must have an endorsement on the teaching certificate in the area of school administration or supervision.

2. Must be a resident of the state.

3. Must have practiced the profession as an administrator for at least 5 years immediately preceding the appointment.

(c) The lay members must be residents of the state.

Section 19. Present paragraph (s) of subsection (1) of section 236.081, Florida Statutes, 1994 Supplement, is redesignated as paragraph (t), and a new paragraph (s) is added to that subsection to read:

236.081 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(s) Extended-school-year program.—It is the intent of the Legislature that students be provided additional instruction by extending the school year to 210 days or more. Districts may apply to the Commissioner of Education for funds to be used in planning for implementing an extended-school-year program. The Department of Education shall recommend to the Legislature the policies necessary for full implementation of an extended school year.

Section 20. Charter schools.—

(1) AUTHORIZATION.—The creation of charter schools is hereby authorized. Charter schools shall be part of the state's program of public education.

(2) PURPOSE.—The purpose of this section shall be to:

(a) Improve student learning.

(b) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as academically low achieving.

(c) Encourage the use of different and innovative learning methods.

(d) Increase choice of learning opportunities for students.

(e) Establish a new form of accountability for schools.

(f) Require the measurement of learning outcomes and create innovative measurement tools.

(g) Make the school the unit for improvement.

(h) Create new professional opportunities for teachers, including the opportunity to own the learning program at the school site.

(3) FORMATION.—Charter schools may be formed either:

(a) By creating a new school. A proposal for a new charter school may be made by an individual, teachers, parents, a group of individuals, a for-profit corporation, or a not-for-profit corporation.

(b) By converting an existing school to charter status. In the case of an existing public school, the proposers shall be the principal, teachers, and/or parents at the school.

A private school, parochial school, or home education program is not eligible for charter school status.

(4) SPONSOR.—

(a) The organizers of a charter school may apply to, and the school may be sponsored by, any of the following:

1. The district school board.

2. The Commissioner of Education.

(b) The district school board shall have the first right of refusal. Upon denial by the district school board, the entity applying for the charter may then apply to the Commissioner of Education. If a district school board denies a charter, the school board shall provide a written description of the reasons for the denial to the applicant. The applicant must include this document in any subsequent application to the Commissioner of Education.

(c) A proposal for a charter school shall be approved or denied within 60 days of receipt of the charter application. Approval shall require a majority vote of the district school board to which the application is made.

(d) The sponsor shall accept the responsibility to monitor and review the charter school in its progress towards the goals established in the charter school agreement.

(e) The sponsor shall accept the responsibility to monitor the flow of cash and disbursements to the charter school.

(5) NUMBER OF SCHOOLS.—With the exception of developmental research schools, the number of charter schools shall be limited to up to five charter schools in school districts with 50,000 or more students and no more than two charter schools in school districts with fewer than 50,000 students.

(6) ELIGIBLE STUDENTS.—

(a) Charter schools shall be open to any student residing in the school district in which the charter school is located.

(b) The school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such case, all applicants shall have an equal chance of being admitted through a random selection process.

(c) A charter school may elect to specialize in:

1. Students within an age group or grade level.

2. Students considered at risk.

(d) A charter school shall not limit admission to students on the basis of intellectual ability, measure of achievement, aptitude, or athletic ability.

(7) LEGAL ENTITY.—A charter school, new or existing, shall organize as a separate legal entity under one of the forms of organization available under the laws of the state, including, but not limited to, nonprofit, cooperative, or partnership.

(8) REQUIREMENTS.—

(a) A charter school shall not be affiliated with a nonpublic sectarian school or religious institution. A school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations.

(b) A charter school shall admit students as provided in subsection (6).

(c) A charter school shall be accountable to its sponsor for performance as provided in subsection (9).

(d) A charter school shall not charge tuition or fees, except those fees normally charged by other public schools.

(e) A charter school shall meet all applicable state and local health, safety, and civil rights requirements.

(f) A charter school shall not violate the anti-discrimination provisions of s 228.2001, Florida Statutes.

(g) A charter school shall be subject to an annual financial audit in a manner similar to that of a school district.

(9) CHARTER DOCUMENT.—The major issues involving the operation of a charter school shall be considered in advance and written into the charter document, which shall be signed by the school and the sponsor following a public hearing to ensure community input.

(a) The school and the sponsor shall come to a written agreement on the following:

1. The education program, the school's mission, the students to be served, the ages and grades to be included, and the focus of the curriculum.

2. The current baseline standard of achievement and the outcomes to be achieved and the method of measurement that will be used.

3. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the charter school. Students in grades 4, 7, and 10 in charter schools must take the student achievement test established by the Department of Education.

4. In secondary charter schools, a method for determining that a student has met the competencies for graduation.

5. A method for resolving conflicts.

6. Authorization to allow the sponsor to monitor and review on behalf of the State Board of Education in regard to outcomes.

7. The admissions procedures and dismissal procedures.

8. The ways by which the school will achieve a racial/ethnic balance reflective of the community it serves.

9. How the school will be insured.

10. The term of the agreement, not to exceed 3 years, which shall provide for cancellation of the charter school agreement if insufficient progress has been made in attaining the student achievement objectives of the charter school plan and if it is not likely that such objectives can be achieved before expiration of the agreement.

11. The facilities to be used and their location.

12. The qualifications to be required of the teachers.

13. The governance structure of the school.

14. A timetable for implementing the charter school plan, which addresses the implementation of each element thereof and the date by which the charter school agreement shall be awarded in order to meet this timetable.

(b) In addition, the sponsor shall require that the school include, as an addendum to the charter document, a plan covering the following items, although the school and the sponsor need not reach agreement on the terms of the plan for these items:

1. The management and administration of the school.

2. In the case of an existing school being converted to charter status, alternative arrangements for current students who choose not to attend the school and for current teachers who choose not to teach in the school after conversion.

3. The instructional methods to be used.

4. Any distinctive instructional techniques to be employed.

5. Internal financial controls.

(c) Charter school agreements may be renewed in increments of 1, 2, or 3 school years by a mutual agreement of the parties.

(d) A charter school agreement may be modified during its initial term or any renewal term on the recommendation of the sponsor and the approval of both parties to the agreement.

(e) Reports on the progress of the charter school shall be made annually to the State Board of Education, the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives. This information shall contain at least the following information:

1. The charter school's progress towards achieving the goals outlined in its charter.

2. Comparative data of student progress in the charter school and existing public schools.

3. Levels of parental involvement.

4. Financial records of the charter school, including revenues and expenditures.

5. Salary and benefit levels of charter school employees.

6. Student demographics, including, but not limited to, ratio of free to reduced-price lunch particpants' ethnicity.

(f) A sponsor shall ensure that the charter school plan is innovative and consistent with the goals of Blueprint 2000.

(10) CAUSES FOR NONRENEWAL OR TERMINATION.—

(a) At the end of a term, the sponsor may choose not to renew the agreement on any of the following grounds:

1. Failure to meet the requirements for student performance stated in the agreement.

2. Failure to meet generally accepted standards of fiscal management.

3. Violation of law.

4. Other good cause shown.

(b) During the term of an agreement, the sponsor may act to terminate the agreement on any of the grounds listed in paragraph (a). A charter may be terminated immediately and the operation of the school assumed by the district school board for good cause or if the sponsor determines that the health, safety, or welfare of the students is threatened.

At least 60 days prior to renewing or terminating a contract, the sponsor shall notify the governing body of the school of the proposed action in writing. The notice shall state in reasonable detail the grounds for the proposed action and that the school's governing body may request in writing an informal hearing before the sponsor within 14 days of receiving the notice.

(c) When an agreement is not renewed or is terminated, the school shall be dissolved under the provisions of law under which the school was organized, and any unencumbered funds from the charter school shall revert to the district school board.

(d) If an agreement is not renewed or is terminated, a student who attended the school may apply to, and shall be enrolled in, another public school. Normal application deadlines shall be disregarded under such circumstances.

(11) EXEMPTION FROM STATUTES AND RULES.--A charter school shall operate in accordance with its charter and shall be exempt from all statutes of the Florida School Code, except those pertaining to civil rights and student health, safety, and welfare, or otherwise required by this act. A charter school shall not be exempt from the following statutes: s.286.011, relating to public meetings and records, public inspection, and penalties; and chapter 119, relating to public records.

(12) TEACHERS.—

(a) The charter school may employ, discharge, and contract with state certified or locally qualified teachers and nonlicensed employees as provided in chapter 231, Florida Statutes, subject to the school's charter. Instructional and noninstructional personnel of a charter school shall be fingerprinted and screened as provided in section 231.02(2), Florida Statutes.

(b) Charter school employees have the option to bargain collectively, but they must do so as a separate unit and not as part of any other district bargaining unit.

(c) Teachers and other personnel may take leave from a current position in a public school district to teach or work in a charter school upon approval of the district school board. While on leave, they may not accrue seniority but shall retain their seniority position in the district school system that granted the leave. The charter school may retain or waive seniority for its employees. If seniority is granted to an employee, the seniority rights are applicable only to employment by the charter school. The charter school's seniority policy must be outlined in its charter.

(d) Teachers and other personnel may choose to be part of a professional group that contracts with the charter school to operate the instructional program under the auspices of a partnership or cooperative that they collectively own.

(13) REVENUE.—Students enrolled in charter schools shall be funded by the state as if they are in a basic program or a special program, the same as students enrolled in noncharter schools operated by the district school board.

(a) Each charter school shall report its student enrollment to the district school board. The district school board shall include each charter school's enrollment in the district's report of student enrollment as required under s. 236.081, Florida Statutes.

(b) In determining the annual appropriation for public schools, the student enrollment in charter schools and noncharter schools operated by the district school board shall be used to calculate the district's total potential revenue per student allocation.

(c) The agreement for funding students enrolled in a charter school shall be the districtwide expenditure rate per full-time equivalent student (FTE) in comparable basic and special programs. The FTE expenditure rate shall be the total program cost from the district general fund and shall be determined from the school and district cost report required under s. 237.34, Florida Statutes.

(d) Transportation of charter school students shall be provided by the charter school consistent with the requirements of chapter 234, F.S. The governing body of the charter school may provide transportation through an agreement or contract with the district school board, a private provider, or with parents. The charter school shall ensure that transportation is not a barrier to equal access for all students.

(e) If the district school board is providing programs as services to students funded by federal funds, any eligible students enrolled in charter schools in the district shall be provided federal funds for the same level of service provided students in the schools operated by the district school board.

(f) School district indirect costs relating to a charter school shall be limited to not more than 5 percent.

(g) School boards shall make every effort to ensure that charter schools receive timely and efficient reimbursement.

(14) IMMUNITY.—For the purposes of tort liability, the governing body and employees of a charter school shall be governed by s. 768.28, Florida Statutes.

(15) LENGTH OF SCHOOL YEAR.—A charter school shall provide instruction for at least the number of days required by law for public schools, and may provide instruction for additional days.

(16) FACILITIES.—

(a) A school district may lease space or sell services to a charter school. A charter school may lease space or secure services from another public body, nonprofit organization, private organization, or individual.

(b) A charter school shall utilize facilities which comply with the State Uniform Building Code for Public Educational Facilities Construction adopted pursuant to s. 235.26, Florida Statutes, or with applicable state minimum building codes pursuant to chapter 553, Florida Statutes, and state minimum fire protection codes pursuant to s. 633.025, Florida Statutes, as adopted by the authority in whose jurisdiction the facility is located.

(17) INITIAL COSTS.—A sponsor may authorize a charter school before the applicant has secured space, equipment, or personnel, if the applicant indicates authorization is necessary for it to raise working capital.

(18) INFORMATION.—The Department of Education shall disseminate information to the public, directly and through sponsors, both on how to form and operate a charter school and on how to enroll in charter schools once they are created. This information shall include a standard application format which shall include the information specified in subsection (9). This application format may be used by chartering entities.

(19) GENERAL AUTHORITY.—A charter school shall not levy taxes or issue bonds secured by tax revenues.

(20) EMPLOYER STATUS OF THE CHARTER SCHOOL.— The charter must specify whether the charter school is a private employer or a public employer. A charter school that is organized as a for-profit entity may not be a public employer and may not participate in the Florida Retirement System. A charter school that is organized as a not-for-profit entity may be either a private or a public employer. As a public employer, a charter school may participate in the Florida Retirement System upon application and approval as a "covered group" under section 121.021(34), Florida Statutes. If the charter school participates in the Florida Retirement System, the charter school employees shall be public employees and shall be compulsory members of the Florida Retirement System. As either a private or public employer, a charter school may contract for services with an individual or group of individuals who are organized as a partnership or a cooperative, and individuals who provide services under this arrangement are not public employees.

Section 21. Subsections (10) and (34) of section 121.021, Florida Statutes, 1994 Supplement, are amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(10) "Employer" means any agency, branch, department, institution, university, institution of higher education, or board of the state, or any county agency, branch, department, board, district school board, or special district of the state, or any city of the state which participates in the system for the benefit of certain of its employees *or a charter school that participates as provided in s. 121.051(2)(c).*

(34) "Covered group" means the officers and employees of an employer who become members under this chapter. "Covered group" applies also when the employer is a *charter school,* special district, or city for which coverage under this chapter is applied for by the employer and approved for social security coverage by the United States Secretary of Health and Human Services and approved by the administrator for membership under this chapter. Members of a firefighters' pension trust fund or a municipal police officers' retirement trust fund, established in accordance with chapter 175 or chapter 185, respectively, shall be considered eligible for membership under this chapter only after holding a referendum and by affirmative majority vote electing coverage under this chapter.

Section 22. Paragraph (c) is added to subsection (2) of section 121.051, Florida Statutes, 1994 Supplement, to read:

121.051 Participation in the system.—

(2) OPTIONAL PARTICIPATION.—

(c) The board of trustees of a charter school may elect to participate in the system upon proper application to the administrator and may cover all or any of its units as approved by the Secretary of Health and Human Services and the administrator. Once this election is made and approved it may not be revoked, and all present officers and employees electing coverage under this chapter and all future officers and employees shall be compulsory members of the Florida Retirement System.

Section 23. This act shall take effect July 1, 1995.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to education; amending s. 230.2303, F.S., relating to the Florida First Start Program; revising provisions relating to eligibility; providing for a sliding fee scale for certain children; requiring specified coordination; deleting an obsolete provision; amending s. 230.2305, F.S., relating to the prekindergarten early intervention program; revising provisions relating to eligibility; providing requirements for school district plans; revising evaluation procedures; deleting a restriction on use of funds for transportation of students; restricting use of funds for certain capital outlay purposes; providing for coordination of early intervention programs with district interagency coordinating councils on early childhood services; saving ss. 230.2303 and 230.2305, F.S., from repeal; creating the "Florida Maximum Class Size Goals Act"; providing goals relating to class size in certain grade levels; authorizing funds for implementation; providing for the review of the Florida School code; amending s. 229.512, F.S.; providing duties of the Commissioner of Education; relating to school improvement and education accountability; amending s. 229.58, F.S.; revising provisions relating to school advisory councils and deleting district advisory councils excepting those existing in 1994-95; amending s. 229.591, F.S.; revising state education goals; amending s. 229.592, F.S.; revising provisions relating to statutory abeyances and waivers; correcting cross references and conforming language relating to statutes repealed after 3 years of abeyance; amending s. 229.594, F.S.; providing a duty of the Florida Commission on Education Reform and Accountability; amending s. 230.23, F.S.; providing district school board duties; amending s. 230.32, F.S.; providing responsibilities of superintendents; amending s. 231.085, F.S.; providing duties of principals; amending s. 236.13, F.S.; correcting a cross reference; amending s. 24.121, F.S.; revising provisions relating to allocation of lottery funds; repealing ss. 228.088, 236.0873, 236.092, and 236.1228, F.S., relating to high school security programs, school volunteer program allocations, mathematics, science, and computer learning laboratories, and accountability program grants; repealing s. 232.2468(2)(b), F.S., relating to certain reports, to conform; requiring notice relating to expulsion for possession of a firearm; amending s. 231.261, F.S.; revising the membership of the Education Practices Commission; amending s. 236.081, F.S.; revising provisions relating to computation of the basic amount to be allocated to each school district for operation of schools; providing for an extended-school-year program; providing legislative intent relating to educational choice; requiring district school boards to offer controlled open enrollment for students in public schools; providing for district school board choice plans and programs; providing for implementation; requiring a report; authorizing the creation of charter schools and providing purpose; providing formation and sponsorship; limiting the number of charter schools; providing student eligibility; providing organization as a legal entity; providing requirements of charter schools and charter documents; providing causes for nonrenewal or termination of a charter agreement; providing exemption from statutes and rules; providing rights and qualifications of teachers; providing funding of charter school students; providing immunity; providing length of school year; providing facility requirements; providing initial costs; requiring dissemination of information; prohibiting levy of taxes and issuance of bonds; requiring the charter to address employer status; providing conditions for participation in the Florida Retirement System; amending s. 121.021, F.S.; revising definitions within the Florida Retirement System to include charter schools; amending s. 121.051, F.S.; providing for optional participation of charter schools in the Florida Retirement System; providing an effective date.

Senator Sullivan moved the following amendments to **Senate Amendment 1 to House Amendment 1** which were adopted:

Amendment 1A—On page 28, line 30, through page 29, line 2, strike all of said lines and insert: shall organize as a nonprofit organization.

Amendment 1B—On page 37, strike all of lines 1-3 and insert: employer or a public employer. A

Amendment 1C—On page 27, lines 17, 21 and 25, strike "Commissioner of Education" and insert: State Board of Education

Amendment 1D—On page 34, line 9, after the period (.) insert: While on leave teachers may continue to be covered by health and other insurance benefits if the charter school and the school district agree.

Amendment 1E—On page 38, between lines 28 and 29, insert: Each school district shall develop a plan for controlled open enrollment within the public schools to afford parents the opportunity to choose the schools they would like their children to attend. Each school district shall submit its plan to the Commissioner of Education by January 1, 1996. The Commissioner shall review the plans and report to the Legislature by March 1, 1996 and shall provide an analysis and recommendations regarding controlled open enrollment.

Senators Hargrett and Jones offered the following amendment to **Senate Amendment 1 to House Amendment 1** which was moved by Senator Jones and failed:

Amendment 1F—On page 38, after line 28, insert: A two-thirds vote of the local school board shall be required to deny a charter for a school that would serve a population in which 60 percent of the students are eligible for free or reduced price lunch.

The vote was:

Yeas—13 Nays—21

Senate Amendment 1 to House Amendment 1 as amended was adopted.

On motions by Senator Sullivan, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendment to the House amendment.

CS for SB 2396 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32 Nays—5

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 2646 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2646—A bill to be entitled An act relating to license plates; creating s. 320.08053, F.S.; providing requirements for a request to establish specialty license plates; creating s. 320.08056, F.S.; providing for the responsibilities of the Department of Highway Safety and Motor Vehicles in developing and issuing specialty license plates; providing annual use fees for all specialty license plates; providing for reauthorization and discontinuance; creating s. 320.08058, F.S.; providing for the use and distribution of specific specialty plate annual use fees; amending s. 320.08062, F.S.; providing for an annual or biennial audit of expenditures of use fees; authorizing the department to determine compliance with auditing provisions; authorizing the Auditor General to examine records pertaining to the use of funds from specialty plates; amending ss. 240.408, 265.284, 320.0805, 380.507, 380.511, F.S., to conform to changes made in this act; amending s. 320.089, F.S., relating to the Purple Heart license plate; removing a weight restriction; deleting reference to a fee; repealing ss. 320.08063, 320.08064, 320.08065, 320.08066, 320.08067, 320.08075, 320.0808, 320.0809, 320.08095, 320.08096, 320.0895, 320.0896, and 320.08975, F.S., relating to various specialty license plates that are provided for in this act; providing an effective date.

House Amendment 1—On page 23, line 28, strike "*320.08058*"and insert: *320.08058(5)*

House Amendment 2 (with Title Amendment)—On page 25, between lines 13 and 14, insert:

Section 24. The Division of Statutory Revision of the Joint Legislative Management Committee shall prepare legislation for introduction at the next regular session of the Legislature which conforms any other law enacted at the 1995 Regular Session and providing for a specialty license plate to the uniform requirements created in this act.

Section 25. If any provision of any law enacted at the 1995 Regular Session of the Legislature providing for a specialty license plate conflicts with any provision of section 320.08053, section 320.08056, section 320.08058, or section 320.08062, Florida Statutes, as created by this act, the provisions of this act supersede the conflicting provision.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 25, after the semicolon (;) insert: directing the Division of Statutory Revision to prepare certain legislation;

House Amendment 3—On page 5, strike all of lines 18-24 and insert: share of the department's costs directly related to issuing the specialty plate. Such costs shall include distribution costs, direct costs to the department and any applicable increased costs of manufacturing the specialty license plate. Beginning in the 1995-96 fiscal year, any cost increase to the department related to actual cost of the plate, including a reasonable vendor profit, shall be verified by the Department of Management Services. The balance of the proceeds from the annual use fees

House Amendment 4—On page 8, line 3, insert:

c. This subparagraph 1. is repealed July 1, 1997. Funds provided in this subparagraph shall be distributed to the Challenger Astronauts Memorial Undergraduate Scholarship Trust Fund created in s. 240.408.

Senator Beard moved the following amendment which was adopted:

Senate Amendment 1 to House Amendment 4—On page 1, strike all of lines 12-15 and insert:

2. Subparagraph 1. is repealed July 1, 1997. After the date of repeal the funds distributed pursuant to subparagraph 1. shall be distributed to the Challenger Astronauts Memorial Undergraduate Scholarship Trust Fund created in s. 240.408.

(Renumber subsequent subparagraphs.)

On motions by Senator Beard, the Senate concurred in **House Amendments 1, 2** and **3**; concurred in **House Amendment 4** as amended and requested the House to concur in the Senate amendment to the House amendment.

CS for SB 2646 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34 Nays—1

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 2990 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 2990—A bill to be entitled An act relating to the Gainesville-Alachua County Regional Airport Authority; amending chapter 86-469, Laws of Florida, as amended; changing the membership, terms, organization, and quorum of the authority; eliminating annual reporting requirements; providing for the privatization of airport operations; removing budget approval by the city commission; deleting obsolete provisions; affirming that the City of Gainesville has no power to operate or maintain the airport and airport facilities; providing for the conveyance of title to the authority; providing an effective date.

House Amendment 1 (with Title Amendment)—

Strike everything after the enacting clause and insert:

Section 1. Chapter 86-469, Laws of Florida, as amended by chapter 89-433, Laws of Florida, is amended to read:

Section 1. Short title.—This act shall be known and may be cited as the "Gainesville-Alachua County Regional Airport Authority Act."

Section 2. Definitions.—As used in this act, unless the context otherwise requires:

(1) "Airport" means any area, of land or water, which is designed for the landing and taking off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft or for receiving and discharging passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way at the area now known and which may hereinafter be known as the Gainesville Regional Airport.

(2) "Airport facilities" means airport facilities at the area now known as the Gainesville Regional Airport, including, but not limited to, *runways, taxiways, taxilanes, aprons,* ~~landing fields,~~ hangars, shops, terminals, buildings and all other facilities necessary or desirable for the landing, taking off, operating, servicing, repairing and parking of aircraft, and the unloading and handling of passengers, mail, express and freight, together with all necessary appurtenances and equipment and all properties, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority in connection therewith. This shall also include the area known on the effective date of this act as the "Airport Industrial Park" and all appurtenant facilities related thereto.

(3) "Authority" means the Gainesville-Alachua County Regional Airport Authority created herein.

(4) "Authorized project" means an undertaking, including a capital project, approved by the authority and includes all property rights, easements, and franchises related thereto and deemed necessary or convenient for the construction, acquisition or operation thereof, and embraces any capital expenditure which *it* ~~the city commission~~ deems to be made for a public purpose, including the refunding of any bonded indebtedness which may be outstanding on any existing project which is to be improved by means of a new project.

(5) "Board of county commissioners" means the Board of County Commissioners of the County of Alachua.

(6) "Bond" includes bonds, debentures, notes, certificates of indebtedness, mortgage certificates, or other obligations or evidences of indebtedness of any type or character.

(7) "City" means the City of Gainesville.

(8) "City commission" means the City Commission of the City of Gainesville.

(9) "County" means the County of Alachua.

(10) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

~~(11) "Preexisting authority" means the Gainesville Regional Airport Authority created under Gainesville City Ordinance No. 2721/0-82-33.~~

(11)~~(12)~~ "Revenue bonds" means obligations of the authority which are payable from revenues derived from sources other than ad valorem taxes on real or tangible personal property and which do not pledge the property, credit, or general tax revenue of the authority or the city.

(12)~~(13)~~ "Refunding bonds" means bonds issued to refinance outstanding bonds of any type and the interest and redemption premium thereon. Refunding bonds shall be issuable and payable in the same manner as the refinanced bonds, except that no approval by the electorate shall be required unless required by the State Constitution.

Section 3. Gainesville-Alachua County Regional Airport Authority.—

(1) CREATION AND PURPOSE.—For the purpose of managing and operating the airport and airport facilities, there is hereby created a dependent special district to be known as the Gainesville-Alachua County Regional Airport Authority. The exercise by the authority of the powers conferred upon it by this act will be deemed to be for an essential and proper purpose.

(2) MEMBERSHIP.—The powers of the authority shall be vested in its members in office from time to time. There shall be nine members. As a condition of eligibility for appointment and to hold office, each member shall reside within the city or county. No person shall serve as a member of the authority and, at the same time, hold any publicly elected office in the State of Florida.

(3) INITIAL APPOINTMENTS; EXPIRATION OF TERMS.—Initial appointments shall be as follows:

(a) The initial members of the authority shall consist of:

1. All members of the preexisting authority; and

2. The four members separately appointed by the Governor and the county to the authority created by chapter 85-378, Laws of Florida.

(b) If any of the members designated in paragraph (a) declines to serve, such office shall be filled within 30 days of the effective date of this act, as follows:

1. The Governor shall replace by appointment any of the three members appointed by him under chapter 85-378, Laws of Florida;

2. The board of county commissioners shall replace by appointment the member appointed thereby under chapter 35-378, Laws of Florida; and

3. The city commission shall replace by appointment any of the remaining members.

(c) The term of any member initially appointed under this act shall expire on July 31 of the year such member's term was scheduled to expire under chapter 85-378, Laws of Florida, or under Gainesville City Ordinance No. 2721/0-82-33, as appropriate, except that the term of any such member previously appointed by the city who was also subsequently appointed to the authority created under chapter 85-378, Laws of Florida, shall expire on July 31 of the year which represents the later expiration date of the two appointments.

(4) SUBSEQUENT APPOINTMENTS; TERMS.—Upon expiration of initial terms of office:

(a) Subsequent appointments shall be made by the appropriate appointing entity on or prior to the date of expiration of the preceding term in the same manner as described in paragraph (3)(b). In the event an appointment has not been made by such date, the Governor shall make the appointment within 20 days thereafter.

(b) All members shall serve 3-year terms of office, beginning on August 1 and expiring on July 31 of the appropriate year.

(5) FILLING OF VACANCIES.—Except as may be otherwise provided herein, vacancies in office shall be filled for the balance of the term by the appropriate appointing entity, in the same manner as set forth in paragraph (3)(b). In such cases, the appointment shall be made no later than 30 days after the office has become vacant. In the event an appointment has not been made by such date, the Governor shall make the appointment within 20 days thereafter.

(6) ORGANIZATION; MEETINGS; NOTICE; QUORUM.—

(a) A chairman, vice chairman, and secretary/treasurer shall be chosen by and from the authority membership. The chairman, vice chairman, and secretary/treasurer shall each serve a term of office of 1 year, and no member shall hold the same office for more than 2 consecutive terms.

(b)1. The authority shall meet at the call of the chairman, at the request of three or more of its members, and at such other times as may be prescribed by rule of the authority.

2. The authority shall give reasonable notice of all meetings at least 48 hours prior thereto, which shall be published in a newspaper in general circulation in Alachua County, and shall include agenda items whenever such items involve leasing of any airport property. All meetings of the authority shall be so noticed except emergency meetings which shall only be called when there is an immediate danger to the public health, safety or welfare.

(c) The presence of five members is required to constitute a quorum, and the affirmative vote of a majority of the members present and eligible to vote, but no fewer than four of the members present and eligible to vote, is required for any action or recommendation by the authority.

(7) REMOVAL FROM OFFICE.—A member may be removed by the entity appointing such member, but only upon grounds constituting misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or commission of a felony. The unexcused failure to attend three consecutive regular meetings of the authority shall be deemed neglect of duty, without limiting the meaning of that term.

(8) RESTRICTIONS.—

(a) No person who has transacted business with the authority shall be eligible for appointment to the authority until 3 years after the last transaction. No person who has served on the authority shall be eligible to transact business with the authority until 3 years after his last date of service. Said transactions include transactions either for oneself or as an employee of, agent for, or consultant to any other person or legal entity. However, nothing in this paragraph shall be construed as prohibiting an appointed member from purchasing supplies or services from any fixed-base operators or tenants at the airport or airport industrial park.

(b) No member, officer, agent, or employee of the authority, either for himself or as agent for anyone else, or as a stockholder or owner in any other legal entity, shall participate in or benefit directly or indirectly from any sale, purchase, lease, franchise, contract, or other transaction, entered into by the authority or the city. The provisions of this paragraph shall be cumulative to any general laws of the state which may from time to time be applicable to members, officers, agents or employees of the authority and which require the disclosure of, or prohibit, conflicts of interest.

(9) EXPENSES.—The members of the authority shall receive no salary or other compensation for their services. The authority shall, however, be authorized to pay reasonable costs and expenses necessarily incurred by the members in performance of their duties.

Section 4. Powers and duties.—The authority shall have *exclusive* jurisdiction over the operation and maintenance of, and improvements to, the airport and airport facilities, and pursuant thereto shall have the following powers and duties, which are in addition to all other powers granted by other provisions of this act:

(1) To enter into contracts and to sue and be sued in its own name.

(2) To acquire real property in fee simple or any lesser interest or easement ~~in the name of the city~~ by purchase, gift, devise, lease or other means if the authority is able to agree with the owners of said property on the terms of such acquisition. To acquire real property in fee simple or any lesser interest or easement ~~in the name of the city~~, as it may deem necessary for the property managing and operation of the airport and airport facilities, by condemnation in the manner provided by the law under which municipalities are authorized to acquire property for public purposes, with full power to exercise the right of eminent domain for such purposes being hereby granted to said authority as specified in and including all the powers, *rights* ~~right~~, and privileges of chapters 73 and 74, Florida Statutes, or any succeeding legislation. For the purposes of making surveys and examinations relative to any condemnation proceedings, it shall be lawful to enter upon any land, doing no unnecessary damage. The authority may take possession of any such property to be acquired at any time after the filing of the petition describing the same in condemnation proceedings, as provided in chapters 73 and 74, Florida Statutes. It shall not be precluded from abandoning the condemnation of any such property in any case where possession thereof has not been taken. ~~However, no condemnation proceedings in exercise of the power of eminent domain shall be initiated or valid, unless and until the city commission shall, by resolution, approve the resolution of the authority and authorize by resolution the exercise of the power of eminent domain in the name of the city for the purposes set forth in such resolution of the authority.~~ To acquire or lease personal property in the name of the authority ~~or in the name of the city~~.

(3) To let or lease the airport and the airport facilities or any portion thereof, and to grant concessions upon such terms and conditions as it shall deem proper.

(4) To employ an airport manager and other personnel as provided in section 6.

(5) To accept revenues from the operation of the airport and airport facilities and, independently, or in conjunction with the City of Gainesville *if required by a granting agency*, to accept gifts, grants, and other revenues.

(6) To prepare and propose a budget annually, and to amend it during the fiscal year, as provided in section 5.

(7) To adopt rules for the regulation of its affairs and the conduct of its business, and rules for the operation of the airport, airport facilities, and aircraft, including, but not limited to, safety and noise abatement rules, and to enforce and administer all such rules.

(8) To name and rename the airport and airport facilities.

(9) To adopt and alter an official seal.

(10) To maintain an office within the city.

(11) To undertake capital projects and repair, equip, maintain, and operate the airport and such buildings, structures, roads, alleyways, and any other development of land or improvements as the authority shall determine to be necessary and proper in the performance of the duties and purposes of this act.

(12) To issue revenue bonds or refunding bonds of the authority pursuant to section *9.* ~~10.~~ Further, to borrow money from available sources to finance airport operations and facilities, excluding the Airport Industrial Park.

(13) To fix and revise from time to time and to collect rates, fees, and other charges for the use of the airport and airport facilities.

(14) To pay operating and debt service costs of the airport *and airport facilities*.

(15) When deemed desirable by the authority, and, when agreed to by the city, to utilize the purchasing authority and capability of the city for such things as, but not limited to, computer services, supplies, equipment, labor, and contractual services. However, all such material and services shall be paid by the authority out of its own budget ~~and not that of the city~~.

~~(16) To annually issue a report to the city commission, board of county commissioners, and the Governor on the progress of the 20-year master plan which is being conducted on the airport.~~

(16)~~(17)~~ To do all acts necessary in order to carry out the purposes of this act.

(17)~~(18)~~ To appoint or employ and constitute its own airport guards or police officers, or to contract with the city, county, or agency of the state to provide law enforcement services and protection through its duly sworn officers, and all such officers shall have full power of arrest to prevent or abate the commission of any offense against the ordinances of the city or county, the laws of this state, or the laws of the United States, when any such offense, or threatened offense occurs upon any airport lands.

(18)~~(19)~~ To expend funds to advertise and promote the airport, its operations, *airport facilities* and issues affecting the airport.

(19) To privatize any operation of the airport when deemed in the best interest of the public.

Section 5. Budget.—

(1) INITIAL BUDGET PROCEDURES.—The authority shall operate under the annual budget of the ~~preexisting~~ authority for the *1994-1995* ~~1986-1987~~ fiscal year, but may submit budget amendments pursuant to this section. The fiscal year for the authority shall be *October 1 through September 30 of each year* ~~concurrent with the fiscal year of the City of Gainesville~~.

(2) GENERAL BUDGET PROCEDURES.—For the *1995-1996* ~~1987-1988~~ fiscal year and each fiscal year thereafter:

(a) Prior to preparation of the annual budget as provided in paragraph (b), the authority shall~~, by the time specified by the city commission,~~ develop an annual proposed budget consisting of the elements described in paragraph (b), which shall be presented for a public hearing before the citizens of Alachua County. This public hearing shall be noticed as a budget hearing.

(b) Following the public hearing conducted pursuant to paragraph (a), the authority shall prepare an annual budget, consisting of an operating *revenue/operating* ~~revenue~~ expense account, capital outlay account, capital project account~~, and such other accounts as the city commission shall prescribe,~~ for its operations in the ensuing fiscal year~~, and the chairman of the authority shall, by the time specified by the city commission, submit such budget to the city commission~~. At the time the authority prepares its annual budget, it shall adopt a resolution determining and finding the estimated amounts to be expended by the authority in the ensuing year in each account, exclusive of any bonds or other indebtedness of the authority, used to acquire, establish, construct, enlarge, operate and maintain the airport and airport facilities and other facilities related thereto, or for any other corporate purpose of the authority. ~~A certified copy of such resolution shall be submitted to the city commission at the same time that the authority submits its annual budget referred to herein.~~

~~(c) The city commission shall examine the budget and the certified copy of the resolution, and may, in its sole discretion, increase or decrease the total amount requested in each account of the budget as the city commission deems advisable. The city commission shall not, however, have the power to veto line items within any account of the budget. The authority shall offer any budget amendments necessitated by any such increase or decrease. Thereafter, the city commission shall approve the budget of the authority, either as submitted or as increased or decreased by amendment, as aforesaid.~~

(c)~~(d) In addition to budget amendments offered under paragraph (c),~~ The authority may, at any time within a fiscal year, adopt budget amendments~~, provided that any budget amendment adopted by the authority that increases the total budget shall be approved by the city commission prior to taking effect~~.

(d)~~(e)~~ All anticipated revenues to be derived from the operation of the airport and airport facilities shall be included in the budget; provided, however, that any amounts of money, anticipated or actual, including funds in the authority's budget for the preceding fiscal year which remain unencumbered and unexpended from the revenue derived under the budget for the preceding fiscal year, may, by resolution of the authority ~~duly adopted and approved by the city commission~~, be set aside in a separate fund, to be known and described as a "Renewal and Replacement Fund," and accumulated in said fund from year to year for the purpose of purchasing real and tangible personal property, and building and constructing permanent improvements, replacements, alterations, buildings, and other structures, including, but not limited to, runways, taxi strips and aprons. Such funds may be disbursed from time to time out of the renewal and replacement fund, upon proper resolution of the authority ~~duly adopted and approved by the city commission~~, solely for the payment of the cost of purchasing real and tangible personal property, and building and constructing permanent improvements, replacements, alterations, buildings, and other structures, including, but not limited to, runways, taxi strips and aprons.

(e)~~(f)~~ The authority shall adopt budget procedures to establish the direct and indirect costs of operating and maintaining the airport and airport facilities, as well as the direct income derived therefrom. However, the budget of the authority shall not include the maintenance and upkeep of navigational aids as performed and funded directly by the Federal Aviation Administration.

~~(g) The remaining balance in the airport operations and capital budget of the airport enterprise fund of the preexisting authority shall be transferred from the city budget to the authority budget on January 12, 1987, except that up to $10,000 may be transferred on the effective date of this act to fund expenses of the authority in carrying out its functions specified in section 15 of this act.~~

~~(h) The remaining balance in the operations trust fund established in the State General Appropriations Act for 1985-1986 shall be transferred from the Department of Transportation to the authority on January 12, 1987.~~

(f)~~(i)~~ The city, ~~shall, and~~ the county and its other political subdivisions may, by loan or grant, fund budget deficits of the authority, and all may guarantee bonds issued by the authority.

Section 6. Employees.—

(1) The authority shall employ an aviation-experienced manager to administer and manage all operations of the airport and airport facilities and to supervise all airport projects. The manager shall employ, supervise, and remove all other employees of the authority. All personnel actions of the authority shall be based upon merit and cause and implemented pursuant to personnel policies of the authority.

(2)~~(a)~~ The authority shall provide terms and conditions of employment for its employees ~~substantially equal to those enjoyed by similarly situated city employees~~.

~~(b) Those individuals employed in the city's airport department as director of aviation and supervisor of operations shall be laid off, effective the close of the work day January 11, 1987. The authority shall offer to employ, effective January 12, 1987, all such individuals employed in the city's airport department on January 11, 1987. Said individuals shall be offered employment with the authority at the same salary as that which would have been paid by the city on January 12, 1987, and with all their terms and conditions of employment being similar (in total) to those they enjoyed with the city as of January 11, 1987.~~

~~(c) The current employees of the City of Gainesville employed as other than director of aviation and supervisor of operations with the airport shall remain employees of the city. These employees shall continue in service at the airport in accordance with the agreement entered into pursuant to this section. The city shall, prior to January 12, 1987, contract with the airport authority for the services of these employees. This agreement shall include a provision providing for compensation to the city at cost for the services of these employees. In the event of a vacancy~~

~~in a position, or the creation of a new position at the airport authority, the city shall fill the position in accordance with the agreement entered into pursuant to this section. As an alternative, with consent of the city commission, the authority may directly employ other employees to fill such vacancies or new positions.~~

~~(d) The agreement entered into pursuant to this section shall be for a term of no less than 10 years. However, the city and authority may renegotiate the terms and conditions at any time. In the event such agreement is terminated, the authority may directly employ its own employees.~~

(3) Nothing in this act shall interfere with the rights of the parties to that certain agreement between the authority and the city pursuant to sections 6(c) and (d) of chapter 86-469, Laws of Florida.

Section 7. Relationship between the authority, city, county, and state.—The authority shall have the power and responsibility to operate the airport *and airport facilities* in a manner consistent with applicable federal, state, county, and city law. *The city has no power to operate or maintain the airport and airport facilities.* Applicable building codes of the city shall apply to all construction upon the airport, except to the extent that different state or federal requirements are expressly applicable, and except to the extent that the authority or the airport has been made exempt from any requirement of the city by state or federal law. All construction upon the airport shall be subject to inspection by the city on behalf of the state, and the city inspectors may ensure compliance with applicable state regulations for such construction in addition to applicable city regulations.

Section 8. Title to airport land.—*The city may convey* ~~This act shall not affect the~~ title to the land comprising the Gainesville Regional Airport *to the authority for no monetary consideration* ~~and Airport Industrial Park~~. Nothing in this act shall be construed to impair the obligations of any original agreements with the Federal Government or of any agreement between the city or any of its agencies and fixed-base operators of the airport entered into as of the effective date of this act.

Section 9. Bonding power.—

(1) The authority is empowered and authorized to issue revenue or refunding bonds. The purpose of the bonds shall be to pay all or any part of the cost for the acquisition and development of property by the authority for the design and construction or reconstruction of any authorized project, for equipment, or for refunding of bonds for the same purpose.

(2) Bonds issued under this section shall be authorized by resolution of the authority. Such bonds may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, be in such denomination or denominations, be in such form, registered or not, with or without coupon, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, be secured in such manner, and have such other characteristics as may be provided by such resolution or ordinance or trust indenture or mortgage issued pursuant thereto. Such bonds shall bear interest at such rate or rates allowed by s. 215.84, Florida Statutes.

(3) The authority shall determine the terms and manner of sale and distribution or other disposition of any and all bonds it may issue and shall have any and all powers necessary or convenient to such disposition.

(4) The authority may establish and administer such sinking funds as it deems necessary or convenient for the payment, purchase, or redemption of any outstanding bonded indebtedness of the authority.

Section 10. Bonding rights.—The State of Florida does pledge to, and agree with, the Federal Government and any person, firm or corporation, subscribing to, or acquiring the bonds to be issued by the authority for the construction, acquisition, extension, improvement or enlargement of projects, or any part thereof, that the state will not limit or alter the rights hereby vested in the authority until all bonds at any time issued, together with the interest therein, are fully paid and discharged or until provision is made therefor. The State of Florida does further pledge to, and agree with, the Federal Government that in the event that the Federal Government shall construct or contribute any funds for the construction, acquisition, extension, improvement or enlargement of said projects, or any part thereof, the state will not alter or limit the rights and powers of the authority in any manner which would be inconsistent with the continued maintenance and operation of the projects, or any part thereof, or the improvement thereof, or which would be inconsistent with the due performance of any agreements between the authority and the Federal Government, and the authority shall continue to have and may exercise all powers herein granted, so long as the same may be necessary or desirable for the carrying out of the purposes of this act and the purposes of the Federal Government in the construction, or acquisition or improvement or enlargement of said projects, or any part thereof.

Section 11. Effect on other laws.—This act shall supersede any law, whether general, special or local, establishing an airport authority, and, to the extent inconsistent with this act, any local ordinance or resolution regarding the operation of the airport facility.

Section 12. Building restriction.—The erection of any new structures or the alteration of any existing structures on the airport that would constitute a hazard to air navigation affecting any facility operated by the authority as the same is defined by the criteria set forth in Regulations of the Administrator, Federal Aviation Agency, Washington, D.C., is hereby prohibited.

Section 13. Nothing herein shall interfere with any legal action filed by or against the city or predecessor or predecessors of the authority. The authority may become a party in any such action as provided by law. Nothing herein shall impair the right of the city to initiate, pursue, or defend litigation.

~~Section 14. Chapter 85-378, Laws of Florida, is hereby repealed.~~

~~Section 15. Upon the effective date of this act, the authority shall undertake all planning and administrative functions preparatory to operating the airport facilities, including the proposal of amendments to the budget of the preexisting authority, and may enter into contracts to take effect no sooner than January 12, 1987, but the authority shall not otherwise take over the operation of the airport and airport facilities until January 12, 1987.~~

Section *14.*~~16.~~ Severability.—~~(1)~~ 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 provisions or applications, and to this end the provisions of this act are declared severable.

~~(2) In particular, if all or part of the method of appointments provided by this act is held invalid, the offices filled by the invalid appointments shall be considered vacant and such vacancies shall be filled by the Governor, if the act can be held valid by such alternative method. If the act cannot be held valid if the Governor so fills such invalid appointments, the offices of all nine members shall be considered vacant and shall all be filled for the remainder of the vacant terms at a general election if held within 90 days of such vacancies, or if not held within that time, at a special election paid for out of the budget of the authority and held by the board of county commissioners for that purpose, in accordance with election laws currently in force in the county, except that any term filled that would be shorter than one year shall be filled at such election for one additional year.~~

Section 2. This act shall take effect on June 1, 1995.

And the title is amended as follows:

Strike the entire title and insert: A bill to be entitled An act relating to the Gainesville-Alachua County Regional Airport Authority; amending chapter 86-469, Laws of Florida, as amended; eliminating annual reporting requirements; providing for the privatization of airport operations; removing budget approval by the city commission; deleting obsolete provisions; affirming that the City of Gainesville has no power to operate or maintain the airport and airport facilities; providing for the conveyance of title to the authority; providing an effective date.

On motion by Senator Kirkpatrick, the Senate concurred in the House amendment.

SB 2990 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

RETURNING MESSAGES ON HOUSE BILLS

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 1, concurred in same as amended, passed as amended HB 187 and requests the concurrence of the Senate.

John B. Phelps, Clerk

HB 187—A bill to be entitled An act relating to the Code of Ethics for Public Officers and Employees; amending s. 112.317, F.S.; providing for costs plus reasonable attorney's fees incurred by a public officer or employee against whom a complaint is lodged under the act under certain circumstances; providing an effective date.

House Amendment 1 (with Title Amendment) to Senate Amendment 1—On page 1, lines 1-20, strike all of said lines and insert: *in a court of competent jurisdiction* to recover *the amount of* such costs *and fees awarded by the commission.*

Section 2. Subsection (2) of s. 112.324, F.S. (1994 Supp.) is amended to read:

112.324 Procedures on complaints of violations.—

(2) A preliminary investigation shall be undertaken by the commission of each legally sufficient complaint over which the commission has jurisdiction to determine whether there is probable cause to believe that a violation has occurred. If, upon completion of the preliminary investigation, the commission finds no probable cause to believe that this part has been violated or that any other breach of the public trust has been committed, the commission shall dismiss the complaint with the issuance of a public report to the complainant and the alleged violator, stating with particularity its reasons for dismissal of the complaint. At that time, the complaint and all materials relating to the complaint shall become a matter of public record. If the commission finds from the preliminary investigation probable cause to believe that this part has been violated or that any other breach of the public trust has been committed, it shall so notify the complainant and the alleged violator in writing. Such notification and all documents made or received in the disposition of the complaint shall then become public records. Upon request submitted to the commission in writing, any person who the commission finds probable cause to believe has violated any provision of this part or has committed any other breach of the public trust shall be entitled to a public hearing. Such person shall be deemed to have waived the right to a public hearing if the request is not received within 14 days following the mailing of the probable cause notification required by this subsection. However, the commission may on its own motion, require a public hearing, may conduct such further investigation as it deems necessary, and may enter into such stipulations and settlements as it finds to be just and in the best interest of the State. *The commission is without jurisdiction to, and no respondent may voluntarily or involuntarily, enter into a stipulation or settlement which imposes any penalty, including but not limited to, a sanction or admonition or any other penalty contained in s. 112.317. Penalties shall be imposed only by the appropriate disciplinary authority as designated in this section.*

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

And the title is amended as follows:

On page 1, line 8 after the semicolon (;) insert: amending s. 112.324 F.S., clarifying jurisdiction of the Commission on Ethics relative to stipulation or settlement agreements; providing for imposition of penalties only by the appropriate disciplinary authority.

On motion by Senator Johnson, the Senate concurred in the House amendment.

HB 187 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 1, concurred in same as amended, passed as amended HB 793 and requests the concurrence of the Senate.

John B. Phelps, Clerk

HB 793—A bill to be entitled An act relating to the Department of Revenue; amending s. 20.04, F.S.; exempting the department from certain requirements relating to internal structure; amending s. 20.21, F.S.; eliminating the divisions and offices within the department and transferring their responsibilities to the department; authorizing the department to pay insurance premiums for out-of-state employees; amending ss. 189.412, 195.087, 195.096, 195.097, 200.068, 200.0684, 213.053, 213.2201, and 409.2599, F.S., relating to approval of property appraisers' and tax collectors' budgets, review of assessment rolls, certification of compliance of taxing authorities, child support enforcement, and department publications, to conform; amending s. 213.015, F.S.; correcting a reference; amending s. 2, ch. 94-124, Laws of Florida; correcting the name of a trust fund; repealing s. 213.045, F.S., which establishes division director, assistant division director, bureau chief, and General Counsel positions within the department; providing an effective date.

House Amendment 1 to Senate Amendment 1—On page 14, line 19, strike "1994" and insert: *1997* ~~1994~~

On motion by Senator Williams, the Senate concurred in the House amendment.

HB 793 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15 and 16; refused to concur in Senate Amendments 1, 2, 6, and 7 and requests the Senate to recede; and has passed HB 2505, as further amended and requests the Senate to concur.

John B. Phelps, Clerk

HB 2505—A bill to be entitled An act relating to juvenile justice; amending s. 20.316, F.S., relating to the Department of Juvenile Justice; removing references to subdistricts; amending s. 39.01, F.S.; clarifying definitions with respect to juvenile proceedings; amending s. 39.0145, F.S.; specifying that direct contempt of court includes traffic court; amending s. 39.017, F.S., relating to attorney's fees; revising provisions relating to presumption against indigency to substitute references to "parent or legal guardian" for references to "defendant"; amending s. 39.025, F.S.; removing a reference to subdistricts; amending s. 39.037, F.S.; providing for notification of other education providers with respect to specified delinquent acts or violations of law; amending s. 39.039, F.S., relating to fingerprinting for misdemeanor offenses; correcting cross references; amending s 39.042, F.S., relating to use of detention; adding a cross reference with respect to domestic violence offenses; amending s. 39.044, F.S.; adding home detention care as a type of detention care and adding a cross reference with respect to domestic violence offenses; amending s. 39.0445, F.S., relating to juvenile domestic violence offenders; adding a cross reference with respect to domestic violence offenses; amending s. 39.047, F.S., relating to intake and case management; adding a cross reference with respect to prosecution as an adult and specifying that written reasons will be provided to the court; amending s. 39.0475, F.S.; providing for approval of intervention programs by alternative sanctions coordinators; amending s. 39.052, F.S., relating to hearings; transferring and amending s. 39.0587, F.S., relating to prosecution of child as adult, as a new subsection under said section; amending s. 39.0581, F.S.; revising criteria for commitment to a maximum-risk residential program; amending s. 39.0583, F.S.; correcting a cross reference; amending s. 39.0585, F.S.; clarifying which juveniles are to be included in the information system; amending s. 39.059, F.S.; correcting a reference with respect to legal guardians; amending s. 39.426, F.S.; revising case staffing committee composition for children in need of services; amending s. 39.003, F.S., amending s. 6, ch. 94-209, Laws of Florida, changing the annual

Juvenile Justice Advisory Board report date and delaying the youthful offender study final report for 1 year; amending s. 230.335, F.S.; providing for specified notification of other education providers; amending s. 232.19, F.S.; providing sanctions for nonattendance at alternative schools; amending s. 236.081, F.S.; placing special programs for teenage parents into the funding category of programs for students at risk; amending s. 316.655, F.S.; revising release procedures for a juvenile arrested for driving under the influence; amending s. 415.515, F.S.; authorizing the Department of Juvenile Justice to develop family builders programs; amending s. 415.51, F.S.; providing access by the Department of Juvenile Justice to the Department of Health and Rehabilitative Services' abuse records; amending s. 790.22, F.S., relating to firearms possession offenses by minors; changing certain references to the Department of Health and Rehabilitative Services to references to the Department of Juvenile Justice; providing conforming language; amending s. 20.316, F.S.; requiring the establishment by the Department of Juvenile Justice of a juvenile justice information system; providing for reports by the department; amending s. 409.146, F.S.; providing for a separate children and families client and management information system in the Department of Health and Rehabilitative Services; amending s. 943.06, F.S.; renaming the Criminal Justice Information Systems Council as the Criminal and Juvenile Justice Information Systems Council; providing for the membership of the Secretary of Juvenile Justice on the council; amending s. 943.08, F.S.; providing additional duties of the council; amending s. 39.025, F.S.; revising procedures for grant applications; transferring the administration of the community juvenile justice partnership grants program from the interagency task force in the Department of Legal Affairs to the Department of Juvenile Justice; providing for a type two transfer of powers, duties, functions, records, personnel, property, and unexpended balances of appropriations and allocations; repealing s. 320.08045, F.S., relating to the motor vehicle theft prevention surcharge on license tax; amending s. 320.08046, F.S.; consolidating two surcharges on license taxes and conforming guidelines for surcharge distribution; repealing s. 860.1545, F.S., relating to the interagency task force in the Department of Legal Affairs; amending s. 860.158, F.S.; conforming provisions relating to the Florida Motor Vehicle Theft Prevention Trust Fund distribution; creating s. 39.0551, F.S.; authorizing the Department of Juvenile Justice to establish residential juvenile assignment centers; requiring certain services to be offered in juvenile assignment centers; providing for the placement of a juvenile in an assignment center; providing for the transfer of a juvenile from an assignment center to a commitment program; requiring assignment centers to be physically secure; amending s. 39.044, F.S., relating to detention; providing for a child to be held or treated in a juvenile assignment center under specified circumstances; amending s. 39.01, F.S.; defining "juvenile sexual offender" and "juvenile sexual abuse"; amending s. 39.044, F.S.; providing procedures when a juvenile sexual offender is placed in detention; requiring detention staff to notify law enforcement and school personnel of a juvenile sexual offender's release or transfer; amending s. 39.052, F.S.; allowing the court to place a sexual offender in community-based treatment at an adjudicatory hearing; providing procedures for a multidisciplinary assessment, including assessment by certified psychologist, therapist, or psychiatrist; providing for reports; providing court authority to review or revoke treatment; amending s. 39.054, F.S.; authorizing the court, subject to specific appropriation, to commit a juvenile sexual offender to the Department of Juvenile Justice for placement in specified programs; amending s. 39.067, F.S.; requiring outpatient sexual offender counseling, subject to specific appropriation, as a component of aftercare services for a juvenile sexual offender furloughed from a commitment program; creating s. 39.0571, F.S.; creating juvenile sexual offender commitment programs; requiring the Department of Juvenile Justice to establish procedures and protocols with certain agencies; providing contracting authority; requiring quality assurance and certain outcome evaluation efforts; providing rulemaking authority; amending s. 415.50165, F.S.; defining "alleged juvenile sexual offender," "juvenile sexual abuse," and "victim"; creating s. 415.50171, F.S.; requiring a family services response system approach to reports of child-on-child sexual abuse by the Department of Health and Rehabilitative Services; providing procedures; requiring certain services to be provided to the victim of juvenile sexual abuse, the alleged juvenile sexual offender, and their caregivers; requiring classification of reports by the department; providing rulemaking authority; amending s. 415.504, F.S.; requiring mandatory reporting and acceptance of juvenile sexual abuse reports by the Department of Health and Rehabilitative Services; providing procedures; requiring the Department of Juvenile Justice, the Juvenile Justice Standards and Training Commission, the Department of Health and Rehabilitative Services, and the Department of Business and Professional Regulation, in a collaborative effort, to study the requirements, licenses, certification, and training of persons providing mental health treatment to juvenile sexual offenders; requiring a report to the Governor and the Legislature; amending s. 39.054, F.S., relating to court powers of disposition with respect to a delinquent child; providing penalties for grand theft auto offenses committed by a child; amending s. 39.044, F.S.; authorizing a court to detain a child prior to his detention hearing if the child has been arrested for an offense involving an imitation firearm; amending s. 790.001, F.S.; defining the term "imitation firearm" for purposes of ch. 790, F.S., relating to weapons and firearms; amending s. 790.06, F.S., relating to licenses to carry concealed weapons or firearms; revising a cross-reference to conform to renumbering by the act; amending s. 790.07, F.S.; providing penalties for certain offenses involving the use of an imitation firearm; amending s. 874.08, F.S., relating to seizure and forfeiture profits, proceeds and instrumentalities of criminal street gangs; amending s. 874.02, F.S., relating to legislative intent regarding criminal street gangs; creating s. 784.076, F.S., to provide sanctions for battery on health services personnel; amending s. 318.14, F.S., relating to non criminal traffic infractions; providing for distribution to trust funds; amending s. 318.21, F.S., relating to disposition of civil penalties by county courts; providing for distribution to trust funds; providing legislative findings; providing for an information-sharing workgroup to develop and implement an information access and delivery system; providing duties of the Auditor General; amending s. 228.041, F.S.; providing a condition for imposition of expulsion; amending s. 230.02, F.S.; authorizing alternative site schools within the district school system; amending s. 230.22, F.S.; providing district school board power for assignment of students to schools; amending s. 230.23, F.S.; providing for district school board cooperation; providing alternatives to student suspension and expulsion; requiring policies for assignment of violent or disruptive students and notice relating to expulsion for possession of a firearm; amending s. 230.2316, F.S., relating to dropout prevention; defining second chance schools; providing requirements and eligibility for second chance schools; providing funding; providing an effective date.

On motions by Senator Johnson, the Senate receded from the Senate amendments.

HB 2505 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36 Nays—1

RETURNING MESSAGES—FINAL ACTION

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 16, Senate Bills 42, 46, CS for SB 56, CS for SB 102, Senate Bills 126, 180, 216, 264, 290, CS for SB 326, Senate Bills 348, 486, 562, CS for SB 658, CS for SB 764, Senate Bills 774, 834, 888, CS for SB 798, CS for SB 1006, Senate Bills 1010, 1020, 1024, 1056, 1292, CS for SB 1372, Senate Bills 1390, 1656, CS for SB 1658, Senate Bills 1660, 1740, 1744, 1754, 1818, 1918, 1934, 1972, CS for SB's 2030 and 2144, CS for SB 2140, SB 2186, CS for SB 2216, Senate Bills 2358, 2404, CS for SB 2436, CS for SB's 2540 and 2682, SB 2546, CS for SB 2642, CS for CS for SB 2684, CS for SB 2852, CS for SB 2858, CS for SB's 2944 and 2206, Senate Bills 2970, 2984, 2992, 3002, 3004, 3020, 3024, 3026, 3028, 3034, 3040, 3050 and 3064.

John B. Phelps, Clerk

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed Senate Bills 1164, 1192, 1278, 1284 and 2236 by the required three-fifths vote of the membership.

John B. Phelps, Clerk

The bills contained in the foregoing messages were ordered enrolled.

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments to House Amendments to SB 166 and passed as further amended; has concurred in Senate Amendments to House Amendments to CS for SB 502 and passed as further amended; has concurred in Senate Amendments to House Amendments to CS for

CS for SB 536 and passed as further amended; has concurred in Senate Amendments to House Amendments to CS for SB 2646 and passed as further amended.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered engrossed and then enrolled.

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments and passed as amended HB 271, CS for HB 355, CS for HB 455, HB 647, HB 811, CS for HB 855, CS for HB 1161, CS for CS for HB 1317, HB 1499, CS for CS for HB 1523, CS for HB 1687, CS for HB 1797, HB 2021, CS for HB 2023, HB 2039, HB 2433, HB 2489, HB 2721 and CS for HB 2619.

John B. Phelps, Clerk

ROLL CALLS ON SENATE BILLS

CS for SB 4

Yeas—31

Bankhead	Dantzler	Holzendorf	Meadows
Beard	Diaz-Balart	Horne	Silver
Bronson	Forman	Jenne	Sullivan
Brown-Waite	Grant	Johnson	Thomas
Burt	Gutman	Kirkpatrick	Turner
Casas	Harden	Kurth	Wexler
Childers	Hargrett	Latvala	Williams
Crist	Harris	McKay	

Nays—None

Vote after roll call:

Yea—Dyer, Myers, Ostalkiewicz, Rossin

CS for SB 94

Yeas—35

Mr. President	Dantzler	Jenne	Myers
Bankhead	Diaz-Balart	Jennings	Ostalkiewicz
Beard	Dudley	Johnson	Rossin
Bronson	Dyer	Jones	Silver
Brown-Waite	Forman	Kirkpatrick	Sullivan
Burt	Grant	Kurth	Thomas
Casas	Harden	Latvala	Turner
Childers	Hargrett	McKay	Williams
Crist	Harris	Meadows	

Nays—1

Holzendorf

Vote after roll call:

Nay to Yea—Holzendorf

SB 152

Yeas—38

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	

Nays—1

Hargrett

SB 166

Yeas—37

Bankhead	Forman	Johnson	Silver
Beard	Grant	Jones	Sullivan
Bronson	Gutman	Kirkpatrick	Thomas
Brown-Waite	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	
Dyer	Jennings	Rossin	

Nays—None

SB 166—After Reconsideration

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for SB 168

Yeas—33

Mr. President	Dantzler	Johnson	Sullivan
Bankhead	Diaz-Balart	Jones	Thomas
Beard	Dyer	Kurth	Turner
Bronson	Grant	McKay	Weinstein
Brown-Waite	Harris	Meadows	Wexler
Burt	Holzendorf	Myers	Williams
Casas	Horne	Ostalkiewicz	
Childers	Jenne	Rossin	
Crist	Jennings	Silver	

Nays—None

Vote after roll call:

Yea—Forman, Hargrett

CS for SB 172

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	

Nays—None

SB 188

Yeas—33

Mr. President	Diaz-Balart	Jennings	Silver
Bankhead	Dudley	Johnson	Sullivan
Beard	Dyer	Jones	Thomas
Bronson	Grant	Kirkpatrick	Weinstein
Brown-Waite	Gutman	Latvala	Wexler
Burt	Harden	McKay	Williams
Casas	Harris	Myers	
Childers	Horne	Ostalkiewicz	
Crist	Jenne	Rossin	

Nays—6

Forman	Holzendorf	Meadows
Hargrett	Kurth	Turner

Vote after roll call:

Nay to Yea—Kurth

CS for SB 220

Yeas—37

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Thomas
Brown-Waite	Gutman	Kirkpatrick	Turner
Burt	Harden	Kurth	Weinstein
Casas	Hargrett	Latvala	Wexler
Childers	Harris	McKay	Williams
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

SB 222

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

SB 224

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for SB 226

Yeas—37

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Wexler
Childers	Harris	McKay	Williams
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

SB 264

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	

Nays—None

SB 272

Yeas—37

Bankhead	Dyer	Johnson	Silver
Beard	Forman	Jones	Sullivan
Bronson	Grant	Kirkpatrick	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—1

Holzendorf

CS for SB 326

Yeas—34

Bankhead	Diaz-Balart	Johnson	Silver
Beard	Forman	Jones	Sullivan
Bronson	Gutman	Kurth	Thomas
Brown-Waite	Harden	Latvala	Turner
Burt	Hargrett	McKay	Weinstein
Casas	Harris	Meadows	Wexler
Childers	Horne	Myers	Williams
Crist	Jenne	Ostalkiewicz	
Dantzler	Jennings	Rossin	

Nays—None

SB 352

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

SB 486

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

SB 496

Yeas—36

Bankhead	Diaz-Balart	Horne	Ostalkiewicz
Beard	Dyer	Jenne	Rossin
Bronson	Forman	Jennings	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Latvala	Turner
Childers	Hargrett	McKay	Weinstein
Crist	Harris	Meadows	Wexler
Dantzler	Holzendorf	Myers	Williams

Nays—None

Vote after roll call:

Yea—Johnson, Kurth

CS for SB 502

Yeas—37

Bankhead	Forman	Johnson	Silver
Beard	Grant	Jones	Sullivan
Bronson	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	
Dyer	Jennings	Rossin	

Nays—None

CS for SB 510

Yeas—37

Bankhead	Forman	Johnson	Silver
Beard	Grant	Jones	Sullivan
Bronson	Gutman	Kirkpatrick	Thomas
Brown-Waite	Harden	Kurth	Turner
Burt	Hargrett	Latvala	Weinstein
Casas	Harris	McKay	Wexler
Childers	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	
Dyer	Jennings	Rossin	

Nays—None

Vote after roll call:

Yea—Crist

CS for CS for SB 536

Yeas—37

Bankhead	Dyer	Johnson	Silver
Beard	Forman	Jones	Sullivan
Bronson	Grant	Kirkpatrick	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Holzendorf	Myers	
Dantzler	Horne	Ostalkiewicz	
Diaz-Balart	Jenne	Rossin	

Nays—None

Vote after roll call:

Yea—Jennings

SB 562

Yeas—33

Bankhead	Forman	Jennings	Sullivan
Beard	Grant	Johnson	Thomas
Bronson	Gutman	Kurth	Turner
Brown-Waite	Harden	Latvala	Weinstein
Burt	Hargrett	Meadows	Wexler
Casas	Harris	Myers	Williams
Childers	Holzendorf	Ostalkiewicz	
Dantzler	Horne	Rossin	
Diaz-Balart	Jenne	Silver	

Nays—1

Crist

SB 580

Yeas—36

Bankhead	Dyer	Jenne	Myers
Bronson	Forman	Jennings	Ostalkiewicz
Brown-Waite	Grant	Johnson	Rossin
Burt	Gutman	Jones	Silver
Casas	Harden	Kirkpatrick	Sullivan
Childers	Hargrett	Kurth	Thomas
Crist	Harris	Latvala	Turner
Dantzler	Holzendorf	McKay	Weinstein
Diaz-Balart	Horne	Meadows	Williams

Nays—None

Vote after roll call:

Yea—Wexler

SB 586

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

SB 660

Yeas—35

Bankhead	Forman	Jennings	Rossin
Beard	Grant	Johnson	Silver
Bronson	Gutman	Jones	Sullivan
Brown-Waite	Harden	Kirkpatrick	Thomas
Casas	Hargrett	Kurth	Turner
Childers	Harris	Latvala	Weinstein
Crist	Holzendorf	Meadows	Wexler
Diaz-Balart	Horne	Myers	Williams
Dyer	Jenne	Ostalkiewicz	

Nays—None

SB 684

Yeas—34

Bankhead	Forman	Jones	Silver
Bronson	Gutman	Kirkpatrick	Sullivan
Brown-Waite	Hargrett	Kurth	Thomas
Burt	Harris	Latvala	Turner
Casas	Holzendorf	McKay	Weinstein
Childers	Horne	Meadows	Wexler
Crist	Jenne	Myers	Williams
Dantzler	Jennings	Ostalkiewicz	
Diaz-Balart	Johnson	Rossin	

Nays—None

SB 834

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	

Nays—None

SB 852

Yeas—37

Mr. President	Bronson	Casas	Diaz-Balart
Bankhead	Brown-Waite	Childers	Dyer
Beard	Burt	Dantzler	Forman
Grant	Jenne	McKay	Turner
Gutman	Jennings	Meadows	Weinstein
Harden	Johnson	Ostalkiewicz	Wexler
Hargrett	Jones	Rossin	Williams
Harris	Kirkpatrick	Silver	
Holzendorf	Kurth	Sullivan	
Horne	Latvala	Thomas	

Nays—None

CS for SB 874

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

SB 876—Amendment 2

Yeas—14

Dyer	Johnson	Rossin	Weinstein
Forman	Jones	Silver	Wexler
Gutman	Kurth	Sullivan	
Jenne	McKay	Turner	

Nays—19

Bankhead	Childers	Harden	Kirkpatrick
Beard	Crist	Hargrett	Myers
Bronson	Dantzler	Harris	Ostalkiewicz
Brown-Waite	Dudley	Horne	Williams
Burt	Grant	Jennings	

SB 876—Motion

Yeas—26

Mr. President	Childers	Gutman	McKay
Bankhead	Crist	Harden	Myers
Beard	Dantzler	Harris	Ostalkiewicz
Bronson	Diaz-Balart	Horne	Thomas
Brown-Waite	Dudley	Jennings	Williams
Burt	Dyer	Johnson	
Casas	Grant	Kurth	

Nays—12

Forman	Jenne	Rossin	Turner
Hargrett	Jones	Silver	Weinstein
Holzendorf	Meadows	Sullivan	Wexler

SB 876

Yeas—28

Mr. President	Childers	Gutman	Kirkpatrick
Bankhead	Crist	Harden	Kurth
Beard	Dantzler	Harris	Latvala
Bronson	Diaz-Balart	Horne	McKay
Brown-Waite	Dudley	Jennings	Myers
Burt	Dyer	Johnson	Ostalkiewicz
Casas	Grant	Jones	Williams

Nays—10

Forman	Rossin	Thomas	Wexler
Hargrett	Silver	Turner	
Jenne	Sullivan	Weinstein	

SB 932

Yeas—35

Mr. President	Dantzler	Jennings	Ostalkiewicz
Bankhead	Diaz-Balart	Johnson	Rossin
Beard	Dudley	Jones	Silver
Bronson	Dyer	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Horne	Meadows	Williams
Crist	Jenne	Myers	

Nays—1

Holzendorf

CS for SB 990

Yeas—34

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dyer	Jennings	Silver
Beard	Forman	Johnson	Thomas
Bronson	Grant	Jones	Turner
Burt	Harden	Kurth	Weinstein
Casas	Hargrett	Latvala	Wexler
Childers	Harris	McKay	Williams
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	

Nays—None

CS for SB 990—After Reconsideration

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for SB 990—Final Passage

Yeas—34

Mr. President	Dyer	Jones	Silver
Bankhead	Forman	Kirkpatrick	Sullivan
Beard	Grant	Kurth	Thomas
Bronson	Harden	Latvala	Turner
Brown-Waite	Hargrett	McKay	Weinstein
Burt	Harris	Meadows	Wexler
Childers	Holzendorf	Myers	Williams
Crist	Jenne	Ostalkiewicz	
Dantzler	Jennings	Rossin	

Nays—None

SB 1016

Yeas—38

Mr. President	Casas	Dyer	Horne
Bankhead	Childers	Forman	Jenne
Beard	Crist	Grant	Jennings
Bronson	Dantzler	Gutman	Johnson
Brown-Waite	Diaz-Balart	Harden	Jones
Burt	Dudley	Harris	Kirkpatrick
Kurth	Myers	Sullivan	Wexler
Latvala	Ostalkiewicz	Thomas	Williams
McKay	Rossin	Turner	
Meadows	Silver	Weinstein	

Nays—2

Hargrett Holzendorf

SB 1020

Yeas—38

Mr. President	Diaz-Balart	Jenne	Rossin
Bankhead	Dyer	Jennings	Silver
Beard	Forman	Johnson	Sullivan
Bronson	Grant	Jones	Thomas
Brown-Waite	Gutman	Kirkpatrick	Turner
Burt	Harden	Kurth	Weinstein
Casas	Hargrett	Latvala	Wexler
Childers	Harris	Meadows	Williams
Crist	Holzendorf	Myers	
Dantzler	Horne	Ostalkiewicz	

Nays—None

SB 1024

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for SB 1046

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

SB 1056

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

SB 1378

Yeas—37

Bankhead	Dyer	Jennings	Silver
Beard	Forman	Johnson	Sullivan
Bronson	Grant	Jones	Thomas
Brown-Waite	Gutman	Kirkpatrick	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Holzendorf	Myers	
Dantzler	Horne	Ostalkiewicz	
Diaz-Balart	Jenne	Rossin	

Nays—None

SB 1390

Yeas—35

Bankhead	Diaz-Balart	Jenne	Ostalkiewicz
Beard	Dudley	Jennings	Rossin
Bronson	Dyer	Johnson	Silver
Brown-Waite	Forman	Jones	Thomas
Burt	Grant	Kirkpatrick	Turner
Casas	Gutman	Kurth	Weinstein
Childers	Harden	McKay	Wexler
Crist	Hargrett	Meadows	Williams
Dantzler	Horne	Myers	

Nays—1

Holzendorf

Vote after roll call:

Yea—Harris

SB 1488

Yeas—37

Mr. President	Diaz-Balart	Johnson	Silver
Bankhead	Dudley	Jones	Sullivan
Beard	Dyer	Kirkpatrick	Thomas
Bronson	Forman	Kurth	Turner
Brown-Waite	Grant	Latvala	Weinstein
Burt	Gutman	McKay	Wexler
Casas	Harden	Meadows	Williams
Childers	Horne	Myers	
Crist	Jenne	Ostalkiewicz	
Dantzler	Jennings	Rossin	

Nays—2

Hargrett Holzendorf

Vote after roll call:

Yea—Harris

CS for SB 1536

Yeas—37

Bankhead	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	
Dudley	Jennings	Rossin	

Nays—1

Holzendorf

CS for SB 1554

Yeas—38

Mr. President	Diaz-Balart	Jenne	Rossin
Bankhead	Dyer	Jennings	Silver
Beard	Forman	Johnson	Sullivan
Bronson	Grant	Jones	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Holzendorf	Myers	
Dantzler	Horne	Ostalkiewicz	

Nays—None

SB 1632

Yeas—37

Bankhead	Forman	Johnson	Silver
Beard	Grant	Jones	Sullivan
Bronson	Gutman	Kirkpatrick	Thomas
Brown-Waite	Harden	Kurth	Turner
Burt	Hargrett	Latvala	Weinstein
Casas	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	
Dyer	Jennings	Rossin	

Nays—None

Vote after roll call:

Yea—Childers

CS for SB 1658

Yeas—34

Bankhead	Grant	Jones	Silver
Beard	Gutman	Kirkpatrick	Sullivan
Bronson	Harden	Kurth	Thomas
Brown-Waite	Hargrett	Latvala	Turner
Casas	Harris	McKay	Weinstein
Dantzler	Holzendorf	Meadows	Wexler
Diaz-Balart	Horne	Myers	Williams
Dyer	Jenne	Ostalkiewicz	
Forman	Johnson	Rossin	

Nays—1

Crist

SB 1664

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

SB 1724

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

SB 1744

Yeas—38

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dyer	Johnson	Silver
Beard	Forman	Jones	Sullivan
Bronson	Grant	Kirkpatrick	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Holzendorf	Myers	
Dantzler	Horne	Ostalkiewicz	

Nays—None

SB 1754

Yeas—35

Bankhead	Diaz-Balart	Johnson	Rossin
Beard	Dyer	Jones	Silver
Bronson	Forman	Kirkpatrick	Sullivan
Brown-Waite	Gutman	Kurth	Thomas
Burt	Harden	Latvala	Turner
Casas	Hargrett	McKay	Weinstein
Childers	Harris	Meadows	Wexler
Crist	Horne	Myers	Williams
Dantzler	Jennings	Ostalkiewicz	

Nays—1

Holzendorf

CS for SB 1808

Yeas—28

Mr. President	Diaz-Balart	Johnson	Rossin
Bankhead	Forman	Jones	Silver
Brown-Waite	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Horne	Latvala	Weinstein
Crist	Jenne	Meadows	Wexler
Dantzler	Jennings	Ostalkiewicz	Williams

Nays—12

Beard	Dudley	Hargrett	McKay
Bronson	Dyer	Harris	Myers
Burt	Grant	Holzendorf	Sullivan

SB 1830

Yeas—33

Bankhead	Diaz-Balart	Jones	Silver
Beard	Dyer	Kirkpatrick	Sullivan
Bronson	Harden	Kurth	Turner
Brown-Waite	Hargrett	Latvala	Weinstein
Burt	Harris	McKay	Wexler
Casas	Holzendorf	Meadows	Williams
Childers	Horne	Myers	
Crist	Jennings	Ostalkiewicz	
Dantzler	Johnson	Rossin	

Nays—None

Vote after roll call:

Yea—Thomas

SB 1934

Yeas—36

Bankhead	Diaz-Balart	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kurth	Thomas
Casas	Harden	Latvala	Turner
Childers	Hargrett	McKay	Weinstein
Crist	Holzendorf	Meadows	Wexler
Dantzler	Horne	Myers	Williams

Nays—None

Vote after roll call:

Yea—Harris, Kirkpatrick

SB 1936

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Horne	Myers	

Nays—None

CS for SB 2074

Yeas—35

Bankhead	Diaz-Balart	Johnson	Rossin
Beard	Dyer	Jones	Silver
Bronson	Forman	Kirkpatrick	Sullivan
Brown-Waite	Gutman	Kurth	Thomas
Burt	Hargrett	Latvala	Turner
Casas	Harris	McKay	Weinstein
Childers	Holzendorf	Meadows	Wexler
Crist	Horne	Myers	Williams
Dantzler	Jennings	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Harden, Jenne

CS for SB 2140

Yeas—37

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Weinstein
Casas	Hargrett	Latvala	Wexler
Childers	Harris	McKay	Williams
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—1

Turner

SB 2242

Yeas—37

Mr. President	Dudley	Johnson	Silver
Bankhead	Dyer	Jones	Sullivan
Beard	Forman	Kirkpatrick	Thomas
Bronson	Grant	Kurth	Turner
Brown-Waite	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—2

Hargrett Holzendorf

CS for SB 2330

Yeas—37

Bankhead	Dyer	Jennings	Silver
Beard	Forman	Johnson	Sullivan
Bronson	Grant	Jones	Thomas
Brown-Waite	Gutman	Kirkpatrick	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Holzendorf	Myers	
Dantzler	Horne	Ostalkiewicz	
Diaz-Balart	Jenne	Rossin	

Nays—None

Vote after roll call:

Yea—Kurth

CS for SB 2396—Amendment 1F

Yeas—13

Forman	Jenne	Meadows	Wexler
Hargrett	Jones	Rossin	
Harris	Kurth	Silver	
Holzendorf	McKay	Turner	

Nays—21

Mr. President	Crist	Harden	Ostalkiewicz
Bankhead	Dantzler	Horne	Sullivan
Bronson	Dudley	Jennings	Williams
Brown-Waite	Dyer	Kirkpatrick	
Burt	Grant	Latvala	
Childers	Gutman	Myers	

CS for SB 2396

Yeas—32

Mr. President	Crist	Harden	McKay
Bankhead	Dantzler	Harris	Ostalkiewicz
Beard	Diaz-Balart	Horne	Rossin
Bronson	Dudley	Jenne	Silver
Brown-Waite	Dyer	Jennings	Sullivan
Burt	Forman	Kirkpatrick	Thomas
Casas	Grant	Kurth	Wexler
Childers	Gutman	Latvala	Williams

Nays—5

Hargrett	Jones	Turner
Holzendorf	Meadows	

CS for SB 2436

Yeas—33

Bankhead	Grant	Johnson	Sullivan
Bronson	Gutman	Jones	Thomas
Casas	Harden	Kirkpatrick	Turner
Childers	Hargrett	Kurth	Weinstein
Crist	Harris	Meadows	Wexler
Diaz-Balart	Holzendorf	Myers	Williams
Dudley	Horne	Ostalkiewicz	
Dyer	Jenne	Rossin	
Forman	Jennings	Silver	

Nays—4

Brown-Waite	Burt	Dantzler	Latvala

SB 2454

Yeas—38

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	

Nays—2

Hargrett Holzendorf

CS for SB's 2540 and 2682

Yeas—35

Bankhead	Dyer	Jenne	Ostalkiewicz
Beard	Forman	Johnson	Rossin
Bronson	Grant	Jones	Silver
Brown-Waite	Gutman	Kirkpatrick	Sullivan
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers	

Nays—None

Vote after roll call:

Yea—Thomas

CS for SB 2642

Yeas—38

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dyer	Johnson	Silver
Beard	Forman	Jones	Sullivan
Bronson	Grant	Kirkpatrick	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	

Nays—None

CS for SB 2646

Yeas—34

Bankhead	Forman	Jones	Silver
Beard	Grant	Kirkpatrick	Sullivan
Brown-Waite	Gutman	Kurth	Thomas
Casas	Hargrett	Latvala	Turner
Childers	Harris	McKay	Weinstein
Crist	Horne	Meadows	Wexler
Dantzler	Jenne	Myers	Williams
Diaz-Balart	Jennings	Ostalkiewicz	
Dyer	Johnson	Rossin	

Nays—1

Holzendorf

Vote after roll call:

Yea—Harden

CS for SB's 2944 and 2206

Yeas—37

Mr. President	Diaz-Balart	Johnson	Silver
Bankhead	Dyer	Jones	Sullivan
Beard	Forman	Kirkpatrick	Thomas
Bronson	Grant	Kurth	Turner
Brown-Waite	Gutman	Latvala	Weinstein
Burt	Harden	McKay	Wexler
Casas	Harris	Meadows	Williams
Childers	Horne	Myers	
Crist	Jenne	Ostalkiewicz	
Dantzler	Jennings	Rossin	

Nays—2

Hargrett Holzendorf

SB 2990

Yeas—37

Mr. President	Diaz-Balart	Jennings	Silver
Bankhead	Dudley	Johnson	Sullivan
Beard	Dyer	Jones	Thomas
Bronson	Forman	Kirkpatrick	Turner
Brown-Waite	Grant	Latvala	Weinstein
Burt	Harden	McKay	Wexler
Casas	Hargrett	Meadows	Williams
Childers	Harris	Myers	
Crist	Horne	Ostalkiewicz	
Dantzler	Jenne	Rossin	

Nays—None

ROLL CALLS ON HOUSE BILLS

HB 29

Yeas—29

Bankhead	Dyer	Jones	Thomas
Beard	Forman	Kirkpatrick	Turner
Bronson	Grant	Kurth	Weinstein
Brown-Waite	Gutman	McKay	Wexler
Burt	Harris	Meadows	Williams
Childers	Horne	Myers	
Crist	Jenne	Ostalkiewicz	
Dantzler	Jennings	Silver	

Nays—2

Hargrett Holzendorf

Vote after roll call:

Yea—Rossin

CS for HB 59

Yeas—27

Bankhead	Diaz-Balart	Jenne	Silver
Beard	Forman	Jennings	Thomas
Brown-Waite	Grant	McKay	Turner
Casas	Gutman	Meadows	Weinstein
Childers	Harden	Myers	Wexler
Crist	Hargrett	Ostalkiewicz	Williams
Dantzler	Holzendorf	Rossin	

Nays—7

Bronson	Dyer	Kurth	Sullivan
Burt	Horne	Latvala	

Vote after roll call:

Yea—Harris

CS for HB 67—Amendment 1

Yeas—14

Bankhead	Dantzler	Horne	Sullivan
Beard	Diaz-Balart	Latvala	Williams
Brown-Waite	Grant	Myers	
Casas	Harden	Ostalkiewicz	

Nays—22

Burt	Hargrett	Kirkpatrick	Thomas
Childers	Harris	Kurth	Turner
Crist	Holzendorf	McKay	Weinstein
Dyer	Jenne	Meadows	Wexler
Forman	Johnson	Rossin	
Gutman	Jones	Silver	

CS for HB 67

Yeas—25

Mr. President	Dudley	Johnson	Thomas
Burt	Dyer	Jones	Turner
Casas	Hargrett	Kurth	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	
Dantzler	Horne	Rossin	
Diaz-Balart	Jenne	Silver	

Nays—10

Beard	Harden	Myers	Williams
Bronson	Kirkpatrick	Ostalkiewicz	
Grant	Latvala	Sullivan	

Vote after roll call:

Yea to Nay—Dantzler

HB 187

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

HB 205

Yeas—34

Mr. President	Dyer	Jenne	Silver
Bankhead	Forman	Jennings	Sullivan
Beard	Grant	Jones	Thomas
Bronson	Gutman	Kirkpatrick	Turner
Brown-Waite	Harden	Latvala	Weinstein
Burt	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Holzendorf	Myers	
Diaz-Balart	Horne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Rossin

CS for HB 229

Yeas—37

Bankhead	Forman	Johnson	Silver
Beard	Grant	Jones	Sullivan
Bronson	Gutman	Kirkpatrick	Thomas
Brown-Waite	Harden	Kurth	Turner
Burt	Hargrett	Latvala	Weinstein
Casas	Harris	McKay	Wexler
Childers	Holzendorf	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—None

CS for HB 237

Yeas—37

Mr. President	Diaz-Balart	Johnson	Silver
Bankhead	Dudley	Jones	Sullivan
Beard	Dyer	Kirkpatrick	Thomas
Bronson	Forman	Kurth	Turner
Brown-Waite	Grant	Latvala	Weinstein
Burt	Gutman	McKay	Wexler
Casas	Harris	Meadows	Williams
Childers	Horne	Myers	
Crist	Jenne	Ostalkiewicz	
Dantzler	Jennings	Rossin	

Nays—2

Hargrett Holzendorf

HB 243

Yeas—36

Bankhead	Diaz-Balart	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Gutman	Kirkpatrick	Sullivan
Burt	Harden	Kurth	Thomas
Casas	Hargrett	Latvala	Turner
Childers	Harris	McKay	Weinstein
Crist	Holzendorf	Meadows	Wexler
Dantzler	Horne	Myers	Williams

Nays—None

HB 343

Yeas—37

Mr. President	Diaz-Balart	Jennings	Silver
Bankhead	Dudley	Johnson	Sullivan
Beard	Dyer	Jones	Thomas
Bronson	Forman	Kirkpatrick	Turner
Brown-Waite	Grant	Kurth	Weinstein
Burt	Gutman	Latvala	Wexler
Casas	Harden	McKay	Williams
Childers	Harris	Meadows	
Crist	Horne	Myers	
Dantzler	Jenne	Rossin	

Nays—2

Hargrett Holzendorf

CS for HB 355

Yeas—36

Mr. President	Dyer	Jennings	Ostalkiewicz
Bankhead	Forman	Johnson	Rossin
Beard	Grant	Jones	Silver
Brown-Waite	Gutman	Kirkpatrick	Sullivan
Burt	Harden	Kurth	Thomas
Casas	Hargrett	Latvala	Turner
Childers	Harris	McKay	Weinstein
Dantzler	Horne	Meadows	Wexler
Diaz-Balart	Jenne	Myers	Williams

Nays—3

Bronson Crist Holzendorf

CS for CS for HB 379

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Horne	Myers	

Nays—1

Holzendorf

CS for HB 395

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Horne	Myers	

Nays—1

Holzendorf

HB 437

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for HB 445

Yeas—37

Bankhead	Dyer	Jennings	Silver
Beard	Forman	Johnson	Sullivan
Bronson	Grant	Jones	Thomas
Brown-Waite	Gutman	Kirkpatrick	Turner
Burt	Harden	Kurth	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Holzendorf	Myers	
Dantzler	Horne	Ostalkiewicz	
Diaz-Balart	Jenne	Rossin	

Nays—None

Vote after roll call:

Yea—Latvala

CS for HB 455

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

HB 475

Yeas—32

Bankhead	Diaz-Balart	Jenne	Rossin
Beard	Dyer	Jennings	Silver
Bronson	Forman	Johnson	Sullivan
Brown-Waite	Grant	Jones	Thomas
Casas	Gutman	Kurth	Turner
Childers	Harden	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Horne	Meadows	Williams

Nays—4

Mr. President	Hargrett	Holzendorf	Myers

Vote after roll call:

Yea to Nay—Crist

CS for HB 481

Yeas—37

Mr. President	Diaz-Balart	Johnson	Silver
Bankhead	Dyer	Jones	Sullivan
Beard	Forman	Kirkpatrick	Thomas
Bronson	Grant	Kurth	Turner
Brown-Waite	Gutman	Latvala	Weinstein
Burt	Harden	McKay	Wexler
Casas	Harris	Meadows	Williams
Childers	Holzendorf	Myers	
Crist	Horne	Ostalkiewicz	
Dantzler	Jenne	Rossin	

Nays—None

Vote after roll call:

Yea—Hargrett

CS for HB 485

Yeas—31

Bankhead	Forman	Jones	Silver
Bronson	Grant	Kirkpatrick	Sullivan
Brown-Waite	Harris	Kurth	Thomas
Casas	Holzendorf	Latvala	Turner
Childers	Horne	McKay	Weinstein
Dantzler	Jenne	Meadows	Wexler
Diaz-Balart	Jennings	Myers	Williams
Dyer	Johnson	Rossin	

Nays—5

Beard	Crist	Hargrett
Burt	Harden	

Vote after roll call:

Yea—Ostalkiewicz

CS for CS for HB 495

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	

Nays—None

CS for HB 503

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	

Nays—None

CS for HB 595

Yeas—37

Bankhead	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	
Dyer	Jennings	Rossin	

Nays—None

HB 647

Yeas—35

Bankhead	Diaz-Balart	Johnson	Rossin
Beard	Dyer	Jones	Silver
Bronson	Grant	Kirkpatrick	Sullivan
Brown-Waite	Harden	Kurth	Thomas
Burt	Hargrett	Latvala	Turner
Casas	Harris	McKay	Weinstein
Childers	Holzendorf	Meadows	Wexler
Crist	Jenne	Myers	Williams
Dantzler	Jennings	Ostalkiewicz	

Nays—None

HB 665

Yeas—36

Bankhead	Diaz-Balart	Jenne	Myers
Beard	Dudley	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Harris	Latvala	Weinstein
Crist	Holzendorf	McKay	Wexler
Dantzler	Horne	Meadows	Williams

Nays—None

Vote after roll call:

Yea—Dyer, Hargrett, Ostalkiewicz

HB 721

Yeas—35

Mr. President	Diaz-Balart	Jennings	Ostalkiewicz
Beard	Dyer	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Harden	Kirkpatrick	Thomas
Burt	Hargrett	Kurth	Turner
Casas	Harris	Latvala	Weinstein
Childers	Holzendorf	McKay	Wexler
Crist	Horne	Meadows	Williams
Dantzler	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Forman, Gutman

CS for CS for HB 725

Yeas—36

Bankhead	Diaz-Balart	Jenne	Myers
Beard	Dyer	Jennings	Ostalkiewicz
Bronson	Forman	Johnson	Rossin
Brown-Waite	Grant	Jones	Silver
Burt	Gutman	Kirkpatrick	Sullivan
Casas	Hargrett	Kurth	Thomas
Childers	Harris	Latvala	Weinstein
Crist	Holzendorf	McKay	Wexler
Dantzler	Horne	Meadows	Williams

Nays—None

CS for HB 735

Yeas—35

Bankhead	Diaz-Balart	Jennings	Ostalkiewicz
Beard	Dyer	Johnson	Rossin
Bronson	Gutman	Jones	Silver
Brown-Waite	Harden	Kirkpatrick	Thomas
Burt	Hargrett	Kurth	Turner
Casas	Harris	Latvala	Weinstein
Childers	Holzendorf	McKay	Wexler
Crist	Horne	Meadows	Williams
Dantzler	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Forman

HB 741

Yeas—36

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dyer	Jenne	Ostalkiewicz
Beard	Forman	Johnson	Rossin
Bronson	Grant	Jones	Silver
Brown-Waite	Gutman	Kirkpatrick	Sullivan
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—1

Crist

Vote after roll call:

Yea—Jennings, Thomas

Nay to Yea—Crist

CS for HB 745

Yeas—40

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

HB 793

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for HB 799

Yeas—38

Mr. President	Diaz-Balart	Jenne	Rossin
Bankhead	Dyer	Jennings	Silver
Beard	Forman	Johnson	Sullivan
Bronson	Grant	Jones	Thomas
Brown-Waite	Gutman	Kirkpatrick	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Holzendorf	Myers	
Dantzler	Horne	Ostalkiewicz	

Nays—None

HB 811

Yeas—35

Mr. President	Forman	Jennings	Ostalkiewicz
Bankhead	Grant	Johnson	Rossin
Brown-Waite	Gutman	Jones	Silver
Casas	Harden	Kirkpatrick	Sullivan
Childers	Hargrett	Kurth	Thomas
Crist	Harris	Latvala	Turner
Dantzler	Holzendorf	McKay	Weinstein
Diaz-Balart	Horne	Meadows	Wexler
Dudley	Jenne	Myers	

Nays—None

HB 813

Yeas—35

Mr. President	Brown-Waite	Childers	Dantzler
Bankhead	Casas	Crist	Diaz-Balart
Dudley	Holzendorf	Kurth	Silver
Forman	Horne	Latvala	Sullivan
Grant	Jenne	McKay	Thomas
Gutman	Jennings	Meadows	Turner
Harden	Johnson	Myers	Weinstein
Hargrett	Jones	Ostalkiewicz	Wexler
Harris	Kirkpatrick	Rossin	

Nays—None

CS for HB 819

Yeas—40

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

CS for HB 855

Yeas—33

Mr. President	Dantzler	Johnson	Silver
Bankhead	Diaz-Balart	Jones	Sullivan
Beard	Dyer	Kirkpatrick	Thomas
Bronson	Grant	Kurth	Weinstein
Brown-Waite	Harden	Latvala	Wexler
Burt	Hargrett	McKay	Williams
Casas	Harris	Myers	
Childers	Horne	Ostalkiewicz	
Crist	Jenne	Rossin	

Nays—4

Forman	Holzendorf	Meadows	Turner

CS for HB 855—After Reconsideration

Yeas—35

Bankhead	Diaz-Balart	Jenne	Ostalkiewicz
Beard	Dyer	Johnson	Rossin
Bronson	Forman	Jones	Silver
Brown-Waite	Grant	Kirkpatrick	Sullivan
Burt	Gutman	Kurth	Thomas
Casas	Harden	Latvala	Turner
Childers	Harris	McKay	Weinstein
Crist	Holzendorf	Meadows	Wexler
Dantzler	Horne	Myers	

Nays—None

HB 889

Yeas—35

Mr. President	Forman	Jennings	Ostalkiewicz
Bankhead	Grant	Johnson	Rossin
Brown-Waite	Gutman	Jones	Silver
Casas	Harden	Kirkpatrick	Sullivan
Childers	Hargrett	Kurth	Thomas
Crist	Harris	Latvala	Turner
Dantzler	Holzendorf	McKay	Weinstein
Diaz-Balart	Horne	Meadows	Wexler
Dudley	Jenne	Myers	

Nays—None

HB 891

Yeas—35

Mr. President	Forman	Jennings	Ostalkiewicz
Bankhead	Grant	Johnson	Rossin
Brown-Waite	Gutman	Jones	Silver
Casas	Harden	Kirkpatrick	Sullivan
Childers	Hargrett	Kurth	Thomas
Crist	Harris	Latvala	Turner
Dantzler	Holzendorf	McKay	Weinstein
Diaz-Balart	Horne	Meadows	Wexler
Dudley	Jenne	Myers	

Nays—None

HB 959

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Horne	Myers	

Nays—1

Holzendorf

HB 967

Yeas—38

Mr. President	Dudley	Jenne	Rossin
Bankhead	Dyer	Jennings	Silver
Beard	Forman	Johnson	Sullivan
Bronson	Grant	Jones	Thomas
Brown-Waite	Gutman	Kirkpatrick	Turner
Burt	Harden	Kurth	Weinstein
Casas	Hargrett	Latvala	Wexler
Childers	Harris	McKay	Williams
Crist	Holzendorf	Meadows	
Dantzler	Horne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Myers

HB 997

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Horne	Myers	

Nays—1

Holzendorf

HB 1003

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Horne	Myers	

Nays—1

Holzendorf

HB 1039

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Horne	Myers	

Nays—1

Holzendorf

HB 1051

Yeas—37

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Hargrett	Meadows	
Crist	Holzendorf	Myers	
Dantzler	Jenne	Ostalkiewicz	

Nays—None

HB 1055

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	

Nays—None

HB 1133

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Horne	Myers	

Nays—1

Holzendorf

HB 1143

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Horne	Myers	

Nays—1

Holzendorf

CS for HB 1211

Yeas—36

Mr. President	Dantzler	Horne	Myers
Bankhead	Diaz-Balart	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Thomas
Burt	Gutman	Kirkpatrick	Turner
Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler
Crist	Holzendorf	Meadows	Williams

Nays—None

Vote after roll call:

Yea—Harris

HB 1229

Yeas—39

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	

Nays—None

HB 1299

Yeas—37

Mr. President	Diaz-Balart	Johnson	Silver
Bankhead	Dudley	Jones	Sullivan
Beard	Forman	Kirkpatrick	Thomas
Bronson	Grant	Kurth	Turner
Brown-Waite	Gutman	Latvala	Weinstein
Burt	Harden	McKay	Wexler
Casas	Hargrett	Meadows	Williams
Childers	Harris	Myers	
Crist	Horne	Ostalkiewicz	
Dantzler	Jennings	Rossin	

Nays—1

Holzendorf

CS for CS for HB 1317

Yeas—40

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

HB 1341

Yeas—36

Bankhead	Dyer	Jenne	Ostalkiewicz
Beard	Forman	Jennings	Rossin
Bronson	Grant	Johnson	Silver
Brown-Waite	Gutman	Jones	Sullivan
Casas	Harden	Kirkpatrick	Thomas
Childers	Hargrett	Latvala	Turner
Crist	Harris	McKay	Weinstein
Dantzler	Holzendorf	Meadows	Wexler
Diaz-Balart	Horne	Myers	Williams

Nays—None

Vote after roll call:

Yea—Kurth

HB 1373

Yeas—35

Bankhead	Dyer	Jennings	Ostalkiewicz
Bronson	Forman	Johnson	Rossin
Brown-Waite	Grant	Jones	Silver
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Harris	Latvala	Weinstein
Crist	Holzendorf	McKay	Wexler
Dantzler	Horne	Meadows	Williams
Diaz-Balart	Jenne	Myers	

Nays—None

HB 1383

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	

Nays—None

Vote after roll call:

Yea—Harris

CS for HB 1385

Yeas—37

Mr. President	Diaz-Balart	Jennings	Silver
Bankhead	Dudley	Johnson	Sullivan
Beard	Dyer	Jones	Thomas
Bronson	Forman	Kirkpatrick	Turner
Brown-Waite	Grant	Latvala	Weinstein
Burt	Gutman	McKay	Wexler
Casas	Harden	Meadows	Williams
Childers	Harris	Myers	
Crist	Horne	Ostalkiewicz	
Dantzler	Jenne	Rossin	

Nays—2

Hargrett Holzendorf

CS for HB 1397

Yeas—38

Mr. President	Diaz-Balart	Jenne	Rossin
Bankhead	Dyer	Johnson	Silver
Beard	Forman	Jones	Sullivan
Bronson	Grant	Kirkpatrick	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Holzendorf	Myers	
Dantzler	Horne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Jennings

HB 1441

Yeas—35

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Casas	Gutman	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Horne	Meadows	Williams
Dantzler	Jenne	Myers	

Nays—3

Hargrett Holzendorf Ostalkiewicz

CS for HB 1485

Yeas—38

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	

Nays—1

Holzendorf

CS for HB 1497

Yeas—36

Mr. President	Dantzler	Jenne	Myers
Bankhead	Diaz-Balart	Jennings	Ostalkiewicz
Beard	Dyer	Johnson	Rossin
Bronson	Forman	Jones	Silver
Brown-Waite	Grant	Kirkpatrick	Sullivan
Burt	Gutman	Kurth	Thomas
Casas	Harden	Latvala	Turner
Childers	Harris	McKay	Weinstein
Crist	Horne	Meadows	Wexler

Nays—2

Hargrett Holzendorf

Vote after roll call:

Yea to Nay—Meadows

HB 1499

Yeas—33

Mr. President	Diaz-Balart	Johnson	Silver
Bankhead	Dyer	Jones	Sullivan
Beard	Forman	Kirkpatrick	Thomas
Bronson	Grant	Kurth	Turner
Brown-Waite	Gutman	Latvala	Weinstein
Burt	Hargrett	McKay	Williams
Casas	Harris	Myers	
Childers	Horne	Ostalkiewicz	
Dantzler	Jennings	Rossin	

Nays—3

Crist Holzendorf Meadows

Vote after roll call:

Yea—Harden

CS for HB 1501

Yeas—38

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dyer	Johnson	Silver
Beard	Grant	Jones	Sullivan
Bronson	Gutman	Kirkpatrick	Thomas
Brown-Waite	Harden	Kurth	Turner
Burt	Hargrett	Latvala	Weinstein
Casas	Harris	McKay	Wexler
Childers	Holzendorf	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	

Nays—None

HB 1505

Yeas—38

Mr. President	Diaz-Balart	Jenne	Rossin
Bankhead	Dyer	Jennings	Silver
Beard	Forman	Johnson	Sullivan
Bronson	Grant	Jones	Thomas
Brown-Waite	Gutman	Kirkpatrick	Turner
Burt	Harden	Kurth	Weinstein
Casas	Hargrett	Latvala	Wexler
Childers	Harris	Meadows	Williams
Crist	Holzendorf	Myers	
Dantzler	Horne	Ostalkiewicz	

Nays—None

CS for CS for HB 1523

Yeas—40

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

CS for HB 1627

Yeas—36

Bankhead	Diaz-Balart	Horne	Myers
Beard	Dyer	Jenne	Ostalkiewicz
Bronson	Forman	Jennings	Rossin
Brown-Waite	Grant	Johnson	Silver
Burt	Gutman	Jones	Sullivan
Casas	Harden	Kurth	Thomas
Childers	Hargrett	Latvala	Turner
Crist	Harris	McKay	Weinstein
Dantzler	Holzendorf	Meadows	Wexler

Nays—None

CS for CS for HB 1639

Yeas—37

Mr. President	Diaz-Balart	Jennings	Silver
Bankhead	Dudley	Johnson	Sullivan
Beard	Dyer	Jones	Thomas
Bronson	Forman	Kirkpatrick	Turner
Brown-Waite	Grant	Kurth	Weinstein
Burt	Gutman	Latvala	Wexler
Casas	Harden	Meadows	Williams
Childers	Harris	Myers	
Crist	Horne	Ostalkiewicz	
Dantzler	Jenne	Rossin	

Nays—2

Hargrett Holzendorf

HB 1645

Yeas—32

Bankhead	Dyer	Horne	Myers
Beard	Forman	Jenne	Rossin
Bronson	Grant	Johnson	Silver
Brown-Waite	Gutman	Jones	Sullivan
Casas	Harden	Kurth	Turner
Crist	Hargrett	Latvala	Weinstein
Dantzler	Harris	McKay	Wexler
Diaz-Balart	Holzendorf	Meadows	Williams

Nays—None

Vote after roll call:

Yea—Childers, Thomas

HB 1671

Yeas—38

Bankhead	Dudley	Jenne	Rossin
Beard	Dyer	Jennings	Silver
Bronson	Forman	Johnson	Sullivan
Brown-Waite	Grant	Jones	Thomas
Burt	Gutman	Kirkpatrick	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Holzendorf	Myers	
Diaz-Balart	Horne	Ostalkiewicz	

Nays—None

CS for HB 1675

Yeas—35

Mr. President	Dantzler	Jennings	Ostalkiewicz
Bankhead	Diaz-Balart	Johnson	Rossin
Beard	Dyer	Jones	Silver
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Horne	Meadows	Williams
Crist	Jenne	Myers	

Nays—2

Hargrett Holzendorf

Vote after roll call:

Yea—Harris

CS for HB 1683

Yeas—35

Mr. President	Dantzler	Johnson	Rossin
Bankhead	Diaz-Balart	Jones	Silver
Beard	Dudley	Kirkpatrick	Sullivan
Bronson	Dyer	Kurth	Thomas
Brown-Waite	Grant	Latvala	Turner
Burt	Harden	McKay	Weinstein
Casas	Horne	Meadows	Wexler
Childers	Jenne	Myers	Williams
Crist	Jennings	Ostalkiewicz	

Nays—2

Hargrett Holzendorf

CS for HB 1745

Yeas—37

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Weinstein
Casas	Hargrett	Latvala	Wexler
Childers	Harris	McKay	Williams
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for HB 1745—After Reconsideration

Yeas—38

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Weinstein
Casas	Hargrett	Latvala	Wexler
Childers	Harris	McKay	Williams
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	

Nays—None

HB 1761

Yeas—38

Bankhead	Dudley	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for HB 1797

Yeas—37

Mr. President	Diaz-Balart	Jenne	Silver
Bankhead	Dudley	Johnson	Sullivan
Beard	Forman	Jones	Thomas
Bronson	Grant	Kirkpatrick	Turner
Brown-Waite	Gutman	Kurth	Weinstein
Burt	Harden	Latvala	Wexler
Casas	Hargrett	McKay	Williams
Childers	Harris	Meadows	
Crist	Holzendorf	Ostalkiewicz	
Dantzler	Horne	Rossin	

Nays—None

HB 1909

Yeas—35

Bankhead	Brown-Waite	Crist	Dyer
Beard	Casas	Dantzler	Forman
Bronson	Childers	Diaz-Balart	Grant
Gutman	Jennings	Meadows	Thomas
Harden	Johnson	Myers	Turner
Hargrett	Jones	Ostalkiewicz	Weinstein
Harris	Kurth	Rossin	Wexler
Horne	Latvala	Silver	Williams
Jenne	McKay	Sullivan	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

CS for CS for HB 1919

Yeas—40

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

CS for HB 2023

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for HB 2025

Yeas—37

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Williams

HB 2055

Yeas—30

Mr. President	Brown-Waite	Childers	Diaz-Balart
Beard	Burt	Crist	Dudley
Bronson	Casas	Dantzler	Dyer

Forman	Jennings	Ostalkiewicz	Weinstein
Gutman	Kurth	Rossin	Wexler
Harris	Latvala	Silver	Williams
Horne	McKay	Sullivan	
Jenne	Myers	Turner	

Nays—2

Hargrett Holzendorf

HB 2077

Yeas—37

Mr. President	Diaz-Balart	Johnson	Silver
Bankhead	Dudley	Jones	Sullivan
Beard	Dyer	Kirkpatrick	Thomas
Bronson	Forman	Kurth	Turner
Brown-Waite	Grant	Latvala	Weinstein
Burt	Hargrett	McKay	Wexler
Casas	Harris	Meadows	Williams
Childers	Horne	Myers	
Crist	Jenne	Ostalkiewicz	
Dantzler	Jennings	Rossin	

Nays—None

Vote after roll call:

Yea—Harden

CS for HB 2119

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	

Nays—None

HB 2131

Yeas—37

Bankhead	Dyer	Johnson	Silver
Beard	Forman	Jones	Sullivan
Bronson	Grant	Kirkpatrick	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Holzendorf	Myers	
Dantzler	Jenne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—1

Horne

CS for HB 2181

Yeas—38

Mr. President	Brown-Waite	Crist	Grant
Bankhead	Burt	Dantzler	Gutman
Beard	Casas	Diaz-Balart	Harden
Bronson	Childers	Forman	Hargrett
Harris	Jones	Myers	Turner
Holzendorf	Kirkpatrick	Ostalkiewicz	Weinstein
Horne	Kurth	Rossin	Wexler
Jenne	Latvala	Silver	Williams
Jennings	McKay	Sullivan	
Johnson	Meadows	Thomas	

Nays—None

Vote after roll call:

Yea—Dyer

HB 2213

Yeas—33

Bankhead	Forman	Kirkpatrick	Sullivan
Beard	Gutman	Kurth	Thomas
Bronson	Harden	Latvala	Turner
Brown-Waite	Hargrett	McKay	Weinstein
Casas	Harris	Meadows	Wexler
Childers	Horne	Myers	Williams
Crist	Jennings	Ostalkiewicz	
Dantzler	Johnson	Rossin	
Dyer	Jones	Silver	

Nays—1

Holzendorf

Vote after roll call:

Yea—Grant

HB 2219

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

HB 2311

Yeas—40

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

HB 2317

Yeas—39

Mr. President	Bronson	Casas	Dantzler
Bankhead	Brown-Waite	Childers	Diaz-Balart
Beard	Burt	Crist	Dyer

Forman	Horne	Latvala	Sullivan
Grant	Jenne	McKay	Thomas
Gutman	Jennings	Meadows	Turner
Harden	Johnson	Myers	Weinstein
Hargrett	Jones	Ostalkiewicz	Wexler
Harris	Kirkpatrick	Rossin	Williams
Holzendorf	Kurth	Silver	

Nays—None

HB 2333

Yeas—35

Mr. President	Forman	Jennings	Ostalkiewicz
Bankhead	Grant	Johnson	Rossin
Brown-Waite	Gutman	Jones	Silver
Casas	Harden	Kirkpatrick	Sullivan
Childers	Hargrett	Kurth	Thomas
Crist	Harris	Latvala	Turner
Dantzler	Holzendorf	McKay	Weinstein
Diaz-Balart	Horne	Meadows	Wexler
Dudley	Jenne	Myers	

Nays—None

HB 2369

Yeas—38

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	

Nays—1

Holzendorf

CS for HB 2421

Yeas—34

Mr. President	Dantzler	Johnson	Silver
Bankhead	Diaz-Balart	Jones	Sullivan
Beard	Dudley	Kurth	Thomas
Bronson	Forman	Latvala	Turner
Brown-Waite	Grant	McKay	Weinstein
Burt	Gutman	Meadows	Wexler
Casas	Harris	Myers	Williams
Childers	Horne	Ostalkiewicz	
Crist	Jennings	Rossin	

Nays—3

Hargrett	Holzendorf	Jenne

HB 2431

Yeas—35

Mr. President	Diaz-Balart	Jennings	Ostalkiewicz
Bankhead	Dudley	Johnson	Rossin
Beard	Dyer	Jones	Silver
Bronson	Forman	Kirkpatrick	Sullivan
Brown-Waite	Grant	Kurth	Thomas
Burt	Gutman	Latvala	Turner
Casas	Harden	McKay	Weinstein
Childers	Harris	Meadows	Wexler
Crist	Jenne	Myers	

Nays—2

Hargrett	Holzendorf

HB 2433

Yeas—37

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Turner
Burt	Harden	Kurth	Weinstein
Casas	Hargrett	Latvala	Wexler
Childers	Harris	McKay	Williams
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Thomas

HB 2445

Yeas—37

Mr. President	Dyer	Johnson	Silver
Beard	Forman	Jones	Sullivan
Bronson	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	
Dudley	Jennings	Rossin	

Nays—1

Holzendorf

HB 2447

Yeas—35

Mr. President	Diaz-Balart	Jennings	Ostalkiewicz
Bankhead	Dyer	Johnson	Rossin
Beard	Grant	Jones	Silver
Bronson	Gutman	Kirkpatrick	Sullivan
Brown-Waite	Harden	Kurth	Turner
Burt	Hargrett	Latvala	Weinstein
Casas	Harris	McKay	Wexler
Childers	Horne	Meadows	Williams
Crist	Jenne	Myers	

Nays—1

Holzendorf

HB 2455

Yeas—37

Mr. President	Dudley	Jennings	Silver
Bankhead	Dyer	Johnson	Sullivan
Beard	Forman	Jones	Thomas
Bronson	Grant	Kirkpatrick	Turner
Brown-Waite	Gutman	Kurth	Weinstein
Casas	Harden	Latvala	Wexler
Childers	Hargrett	McKay	Williams
Crist	Harris	Meadows	
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Rossin	

Nays—1

Holzendorf

HB 2471

Yeas—40

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

HB 2475

Yeas—32

Bankhead	Dudley	Horne	Myers
Beard	Dyer	Jenne	Rossin
Brown-Waite	Forman	Jennings	Silver
Casas	Grant	Johnson	Sullivan
Childers	Gutman	Kirkpatrick	Thomas
Crist	Harden	Kurth	Turner
Dantzler	Harris	Latvala	Weinstein
Diaz-Balart	Holzendorf	McKay	Williams

Nays—1

Bronson

HB 2489

Yeas—35

Mr. President	Dantzler	Jennings	Ostalkiewicz
Bankhead	Diaz-Balart	Johnson	Rossin
Beard	Dyer	Jones	Silver
Bronson	Forman	Kirkpatrick	Sullivan
Brown-Waite	Gutman	Kurth	Thomas
Burt	Harden	Latvala	Weinstein
Casas	Harris	McKay	Wexler
Childers	Horne	Meadows	Williams
Crist	Jenne	Myers	

Nays—3

Hargrett	Holzendorf	Turner

HB 2493

Yeas—37

Mr. President	Forman	Johnson	Silver
Bankhead	Grant	Jones	Sullivan
Beard	Gutman	Kirkpatrick	Thomas
Bronson	Harden	Kurth	Turner
Brown-Waite	Hargrett	Latvala	Weinstein
Burt	Harris	McKay	Wexler
Childers	Holzendorf	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	
Dyer	Jennings	Rossin	

Nays—None

HB 2505

Yeas—36

Mr. President	Dantzler	Horne	Myers
Bankhead	Diaz-Balart	Jenne	Ostalkiewicz
Beard	Dudley	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler

Nays—1

Holzendorf

HB 2507

Yeas—38

Mr President	Diaz-Balart	Horne	Ostalkiewicz
Bankhead	Dudley	Jenne	Rossin
Beard	Dyer	Jennings	Silver
Bronson	Forman	Johnson	Sullivan
Brown-Waite	Grant	Jones	Turner
Burt	Gutman	Kirkpatrick	Weinstein
Casas	Harden	Kurth	Wexler
Childers	Hargrett	McKay	Williams
Crist	Harris	Meadows	
Dantzler	Holzendorf	Myers	

Nays—None

HB 2537

Yeas—37

Mr. President	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—2

Hargrett	Holzendorf

HB 2553

Yeas—37

Mr. President	Dudley	Jennings	Silver
Bankhead	Dyer	Johnson	Sullivan
Beard	Forman	Jones	Thomas
Bronson	Grant	Kirkpatrick	Turner
Brown-Waite	Gutman	Kurth	Weinstein
Burt	Harden	Latvala	Wexler
Casas	Hargrett	Meadows	Williams
Childers	Holzendorf	Myers	
Crist	Horne	Ostalkiewicz	
Diaz-Balart	Jenne	Rossin	

Nays—None

HB 2597

Yeas—30

Mr. President	Diaz-Balart	Johnson	Silver
Bankhead	Forman	Jones	Sullivan
Beard	Grant	Kurth	Turner
Bronson	Gutman	Latvala	Weinstein
Brown-Waite	Hargrett	McKay	Wexler
Burt	Harris	Meadows	Williams
Casas	Horne	Myers	
Dantzler	Jenne	Rossin	

Nays—None

Vote after roll call:

Yea—Childers, Harden, Thomas

HB 2609

Yeas—36

Bankhead	Diaz-Balart	Jenne	Myers
Beard	Dyer	Jennings	Ostalkiewicz
Bronson	Forman	Johnson	Rossin
Brown-Waite	Grant	Jones	Silver
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Horne	Meadows	Williams

Nays—None

HB 2651

Yeas—32

Bankhead	Diaz-Balart	Holzendorf	Myers
Beard	Dyer	Horne	Ostalkiewicz
Bronson	Forman	Jenne	Rossin
Brown-Waite	Grant	Jennings	Silver
Burt	Gutman	Johnson	Sullivan
Casas	Harden	Kirkpatrick	Thomas
Childers	Hargrett	Kurth	Turner
Crist	Harris	McKay	Williams

Nays—None

Vote after roll call:

Yea—Dantzler

HB 2689

Yeas—40

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

HB 2701

Yeas—35

Mr. President	Forman	Jennings	Ostalkiewicz
Bankhead	Grant	Johnson	Rossin
Brown-Waite	Gutman	Jones	Silver
Casas	Harden	Kirkpatrick	Sullivan
Childers	Hargrett	Kurth	Thomas
Crist	Harris	Latvala	Turner
Dantzler	Holzendorf	McKay	Weinstein
Diaz-Balart	Horne	Meadows	Wexler
Dudley	Jenne	Myers	

Nays—None

HB 2731

Yeas—36

Bankhead	Dyer	Jennings	Ostalkiewicz
Beard	Forman	Johnson	Rossin
Bronson	Grant	Jones	Silver
Brown-Waite	Gutman	Kirkpatrick	Sullivan
Burt	Harden	Kurth	Thomas
Casas	Hargrett	Latvala	Turner
Childers	Harris	McKay	Weinstein
Crist	Horne	Meadows	Wexler
Dantzler	Jenne	Myers	Williams

Nays—None

HCR 2741

Yeas—38

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dudley	Johnson	Silver
Beard	Forman	Jones	Sullivan
Bronson	Grant	Kirkpatrick	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Hargrett	Latvala	Weinstein
Casas	Harris	McKay	Wexler
Childers	Holzendorf	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Dyer

HCR 2743

Yeas—40

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

HCR 2745

Yeas—40

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

ROLL CALLS ON LOCAL BILLS

The following roll call was taken on **House Bills 441, 597, 1367, 1303, 1291, 2165, 2393, 2179, 1607, 1955, 1951** and **CS for HB 1943; Senate Bills 3032, 3034** and **3064; House Bills 603, 653, 655, 703, 1181, 1231, 1235, 1791, 1815, 2383, 2591, 2593** and **1551** which passed this day:

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	

Nays—None

The following roll call was taken on **House Bills 225, 601, 1273, 1281, 1293, 1601, 1643, 1945, 2021, 2183, 2185, 2565, 2733, 2735** and **2739** which passed this day:

Yeas—39

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers	

Nays—None

DISCLOSURE

Pursuant to Senate Rule 1.39, I am disclosing that SB 3072 and HB 2739 indirectly inure to the special private gain of a client of the law firm in which I am a partner.

James A. Scott, 31st District

The following roll call was taken on **House Bills 1295, 1515, 1949, 2189** and **2291** which passed this day:

Yeas—30

Mr. President	Burt	Dudley	Gutman
Bankhead	Casas	Dyer	Harden
Bronson	Crist	Forman	Hargrett
Brown-Waite	Diaz-Balart	Grant	Harris
Holzendorf	McKay	Rossin	Wexler
Horne	Meadows	Silver	Williams
Johnson	Myers	Sullivan	
Jones	Ostalkiewicz	Turner	

Nays—None

ROLL CALLS ON EXECUTIVE BUSINESS

Refuse to Confirm
H. James Towey

Yeas—18

Dantzler	Jenne	Meadows	Weinstein
Dyer	Johnson	Rossin	Wexler
Forman	Jones	Silver	Williams
Hargrett	Kirkpatrick	Thomas	
Holzendorf	Kurth	Turner	

Nays—22

Mr. President	Casas	Gutman	McKay
Bankhead	Childers	Harden	Myers
Beard	Crist	Harris	Ostalkiewicz
Bronson	Diaz-Balart	Horne	Sullivan
Brown-Waite	Dudley	Jennings	
Burt	Grant	Latvala	

Confirmation
Ben G. Watts
Richard Thomas Farrell
Virginia B. Wetherell
Charles Michael Dusseau
Edward Bentley Lipscomb
Calvin Ross
Linda Loomis Shelley
William Henry Lindner

Yeas—40

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

Confirmation
Douglas Lee Jamerson

Yeas—36

Mr. President	Diaz-Balart	Horne	Ostalkiewicz
Bankhead	Dyer	Jenne	Rossin
Beard	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	Meadows	Wexler
Dantzler	Holzendorf	Myers	Williams

Nays—3

Bronson	Jennings	McKay

Confirmation
Marcia L. Mann

Yeas—35

Mr. President	Bronson	Casas	Diaz-Balart
Bankhead	Brown-Waite	Childers	Dyer
Beard	Burt	Crist	Forman

Grant	Horne	McKay	Thomas
Gutman	Jennings	Meadows	Turner
Harden	Johnson	Myers	Weinstein
Hargrett	Jones	Ostalkiewicz	Wexler
Harris	Kurth	Silver	Williams
Holzendorf	Latvala	Sullivan	

Nays—3

Jenne	Kirkpatrick	Rossin

Vote after roll call:

Yea—Dantzler

Confirmation
Harry K. Singletary, Jr.

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	

Nays—None

Confirmation
Susan Forbes Clark
J. Terry Deason
Jose "Joe" Antonio Garcia

Yeas—36

Mr. President	Dyer	Jennings	Ostalkiewicz
Bankhead	Forman	Johnson	Rossin
Beard	Grant	Jones	Silver
Bronson	Gutman	Kirkpatrick	Sullivan
Casas	Harden	Kurth	Thomas
Childers	Hargrett	Latvala	Turner
Crist	Harris	McKay	Weinstein
Dantzler	Horne	Meadows	Wexler
Diaz-Balart	Jenne	Myers	Williams

Nays—1

Holzendorf

Vote after roll call:

Nay to Yea—Holzendorf

Nay—Holzendorf on confirmation of Jose Garcia

Nay—Brown-Waite on confirmation of Susan Clark

Confirmations
Report No. 15

Yeas—39

Mr. President	Bronson	Casas	Dantzler
Bankhead	Brown-Waite	Childers	Diaz-Balart
Beard	Burt	Crist	Dyer
Forman	Horne	Latvala	Sullivan
Grant	Jenne	McKay	Thomas
Gutman	Jennings	Meadows	Turner
Harden	Johnson	Myers	Weinstein
Hargrett	Jones	Ostalkiewicz	Wexler
Harris	Kirkpatrick	Rossin	Williams
Holzendorf	Kurth	Silver	

Nays—None

Confirmations
Report No. 16

Yeas—38

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Wexler
Childers	Harris	McKay	Williams
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	

Nays—None

Vote after roll call:

Yea—Weinstein

Suspension
Regina T. Brown

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	

Nays—None

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 4 was corrected and approved.

CO-SPONSORS

Senator Hargrett—CS for SB's 2030 and 2144; Senator Harris—SCR 2966; Senator Jones—CS for SB 2382, CS for SB 2522

RECESS

On motion by Senator Jennings, the Senate recessed at 1:53 a.m., Saturday, May 6 to reconvene at 1:00 p.m., Thursday, May 11.