



Journal of the Senate

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CALL TO ORDER

The Senate was called to order by the President at 9:30 a.m. A quorum present—40:

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

PRAYER

The following prayer was offered by the Rev. Jack Oliver, Pastor, Exciting Idlewild Baptist Church, Tampa:

Dear Heavenly Father, we come to you today to ask you to be with these men and women in the Senate of the great state of Florida. We ask you to give them wisdom to make decisions that will honor your holy name. We know as scripture tells us that "Righteousness exalteth a nation, but sin is a reproach to the people."

So we ask you today to help the leaders to lead in the way that you would have them to lead. I ask you to help them realize that they are here by divine appointment to carry out what would honor you. You tell us to do nothing out of selfish ambition or vain glory but in humility, to consider others better than ourselves. You also tell us not to look to our own interests but to the interests of others.

I pray that our leaders in the Senate would heed your holy word and put others before themselves. Help us, Father, to remember what our leaders of yesteryear knew, and that is to put our faith and trust in you to guide us not only in trouble or turmoil but in our everyday living.

We ask this in the name of your Son, my Savior and Lord, Jesus Christ. Amen.

PLEDGE

Senate Pages, Russell Eckenrod of Ellenton and Sara Parrish of Orlando, led the Senate in the pledge of allegiance to the flag of the United States of America.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Silver, by two-thirds vote **SB 996** was removed from the Special Order Calendar and withdrawn from further consideration; and **SB 466** and **SB 1572** were withdrawn from the committees of reference and further consideration.

On motion by Senator Sullivan, by two-thirds vote **CS for SB 20** was withdrawn from the Committee on Ways and Means.

MOTIONS RELATING TO COMMITTEE MEETINGS

On motion by Senator Kirkpatrick, the rules were waived and the conferees on **CS for CS for SB's 1688, 792, 1334 and 2254** were granted permission to meet this day from 7:00 p.m. until completion.

MOTIONS

On motion by Senator Bankhead, by two-thirds vote **SB 2054** was placed on the Consent Calendar for Thursday, May 1.

On motion by Senator Bankhead, by two-thirds vote **HB 1875, HB 1175, SB 2510, HB 977, SB 2530** and **HB 1543** were added to the Local Bill Calendar for today to be taken up Thursday, May 1.

On motion by Senator Bankhead, a deadline of 7:00 a.m. Thursday, May 1, was set for filing amendments to Bills on Third Reading to be considered that day.

CONSIDERATION OF BILLS ON THIRD READING

On motions by Senator Cowin, by two-thirds vote—

CS for HB 137—A bill to be entitled An act relating to education; amending s. 230.03, F.S., relating to management of the district school system; providing authority for rules, procedures, and policies; correcting a cross reference; repealing s. 230.105(9), F.S., relating to ballot proposition wording for single-member representation for district school boards; amending s. 230.22, F.S.; revising provisions relating to general powers of school boards; amending s. 230.23, F.S.; revising provisions relating to powers and duties of school boards; amending s. 230.2301, F.S.; revising provisions relating to parent meetings with school district personnel; amending s. 230.2305, F.S.; revising provisions relating to the prekindergarten early intervention program; repealing s. 230.23135, F.S., relating to the Florida Council on Student Services; amending s. 230.2316, F.S.; revising provisions relating to dropout prevention; deleting definitions, certain program criteria, and provisions requiring program plans and staff development; amending s. 230.23161, F.S.; correcting a cross reference; amending s. 230.2317, F.S.; revising provisions relating to multiagency services for students with severe emotional disturbance; amending s. 230.2318, F.S.; authorizing school resource officer programs; deleting program purposes and plan requirements; amending s. 230.303, F.S.; deleting obsolete language; amending s. 230.33, F.S.; revising provisions relating to duties and responsibilities of superintendents; amending s. 230.331, F.S., relating to reproduction and destruction of district school records; amending s. 230.35, F.S., relating to

schools under the control of the school board and superintendent; repealing ss. 230.59, 230.655, and 230.71, F.S., relating to educational communications systems, education programs in correctional facilities, and intergenerational school volunteer programs; amending s. 232.01, F.S., and repealing ss. 232.04 and 232.045, F.S.; combining provisions relating to school attendance requirements; amending s. 232.021, F.S.; conforming provisions; amending s. 232.0225, F.S.; revising provisions relating to absence for religious instruction or holidays; repealing s. 232.023, F.S., relating to falsification of attendance records; amending s. 232.03, F.S.; correcting cross references; repealing s. 232.032(2) and 232.034, F.S., relating to an investigation of tuberculosis incidence and a medical exemption for transporting students; amending s. 232.06, F.S.; revising provisions relating to school attendance certificates of exemption; amending s. 232.09, F.S.; correcting a cross reference; repealing ss. 232.10, 232.13, and 232.165, F.S., relating to explanation of student absence, reports of exceptional children, and nonissuance or suspension of driver's license based on student enrollment; amending s. 232.17, F.S.; revising provisions relating to enforcement of school attendance; deleting reference to attendance assistants; amending s. 232.19, F.S.; conforming provisions; repealing ss. 232.245(2) and (3) and 232.2452, F.S., relating to requirements for school district programs for pupil progression and report cards; repealing s. 232.2461, F.S., relating to model curriculum standards; amending s. 232.2462, F.S.; deleting attendance requirements for receipt of high school credit; amending s. 232.2468, F.S., and repealing subsections (2) and (3), relating to graduation, habitual truancy, and dropout rates; repealing ss. 232.257 and 232.258, F.S., relating to the School Safety Program and school and community resource grants; amending s. 232.271, F.S.; conforming provisions; repealing ss. 232.276, 232.3015, 232.303, and 232.304, F.S., relating to parenting workshops, outreach programs, interagency student services, and multiagency coordinating councils; repealing s. 233.011, F.S., relating to accountability in curriculum, instructional materials, and testing; amending s. 233.061, F.S.; revising provisions relating to required instruction; creating s. 233.0612, F.S.; providing authorized instruction; repealing ss. 233.0615, 233.06411, 233.0645, 233.065, 233.0661, 233.0662, 233.0663(2), (3), (4), (5), (6), and (7), 233.067, 233.0671, and 233.068(3) and (4), F.S., relating to a character development and law education program, a free enterprise and consumer education program, voting instruction, patriotic programs, certain requirements of the drug abuse and resistance education program, comprehensive health education and substance abuse prevention, courses of study in the care of nursing home patients, and planning and implementation of a career development and applied technology program; amending s. 233.07, F.S.; deleting obsolete language; renumbering s. 234.041, F.S., relating to school buses; repealing s. 234.0515, F.S., relating to transportation of students by private transportation companies; repealing ss. 234.061 and 234.091, F.S., relating to designation of routes and school bus driver qualifications, to conform; amending and renumbering s. 234.302, F.S., relating to school crossing guards; amending ss. 24.121, 39.01, 228.053, 228.061, 229.0535, 229.565, 229.58, 229.592, 229.594, 229.8055, 231.085, 231.095, 231.1725, 236.013, 236.081, 236.0811, 236.0812, 236.1228, 239.101, 239.229, 397.405, 402.22, 415.5015, 450.121, 493.6102, and 561.025, F.S.; correcting cross references, conforming language, and deleting obsolete language; amending s. 236.24, F.S.; clarifying language relating to school board securities transactions; repealing s. 236.0842, F.S., relating to approval for dropout prevention programs, to conform; providing an effective date.

—a companion measure, was substituted for **CS for SB 1376** as amended and read the second time by title.

On motion by Senator Cowin, further consideration of **CS for HB 137** was deferred.

Consideration of **HB 1933** was deferred.

On motion by Senator Lee, by two-thirds vote **CS for HB 1275** was withdrawn from the Committees on Community Affairs; Regulated Industries; and Ways and Means.

On motions by Senator Lee, by two-thirds vote—

CS for HB 1275—A bill to be entitled An act relating to taxation; providing legislative intent with respect to the municipal public service tax; amending s. 166.231, F.S.; providing that specified governmental

bodies are exempt from said tax; exempting certain religious institutions from the tax on telecommunication services; providing that state universities shall not be deemed sellers of taxable items under certain circumstances; revising provisions relating to determination of the situs of telecommunication services; providing requirements for returns and remittance of the tax on telecommunication services; requiring certain purchasers claiming exemptions to certify that they are qualified therefor; requiring governmental bodies that sell taxable services to nonexempt users to collect and remit the tax; creating s. 166.233, F.S.; providing requirements for levy of the tax; specifying effective dates; providing duties of the Department of Revenue; requiring municipalities to furnish certain information relating to the tax to the Department of Revenue and to other persons; providing for fees; providing limitations on the responsibilities of sellers if information is not furnished as required; providing procedures that apply when more than one municipality claims an address or when information does not conform to the seller's address records; creating s. 166.234, F.S.; providing procedures for audits of sellers by municipalities; prohibiting contingent fee audits; prescribing record retention requirements for sellers; providing time limitations on assessments of taxes and on applications for refunds or credits; providing for offsets of overpayments against underpayments and for refunds and credits; authorizing municipalities to assess interest and penalties; providing requirements with respect to a determination by a municipality of amounts of tax; providing protest procedures and judicial remedies; providing for settlement or compromise of a seller's liability for taxes; providing for interest on refunds if a law is enacted requiring interest on sales or gross receipts tax refunds; providing rights and duties of municipalities and sellers; providing for communications between municipalities with respect to specified matters relating to audits and the identities of sellers; prescribing the circumstances for assessment of audit expenses against a seller; providing a schedule for application of the requirements of the act; amending ss. 203.01 and 203.63, F.S., relating to taxes on gross receipts for utility services and on interstate and international telecommunication services; specifying that certain sums charged as taxes under said sections and under ch. 212, F.S., shall not be subject to refund, notwithstanding requirements relating to separate statement of such taxes on bills or invoices; providing legislative intent; providing an appropriation; providing for severability; providing an effective date.

—a companion measure, was substituted for **CS for SB 1958** as amended and by two-thirds vote read the second time by title. On motion by Senator Lee, by two-thirds vote **CS for HB 1275** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Madam President	Crist	Jones	Silver
Bronson	Dantzler	Kirkpatrick	Sullivan
Brown-Waite	Dudley	Klein	Thomas
Burt	Grant	Kurth	Turner
Campbell	Hargrett	Lee	Williams
Casas	Holzendorf	McKay	
Clary	Horne	Myers	
Cowin	Jenne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Bankhead, Childers, Dyer, Forman, Gutman, Harris

SB 2252—A bill to be entitled An act relating to the tourist development tax; amending s. 125.0104, F.S.; providing for a county to levy an additional tax for the purpose of paying for a convention center in the county or subcounty special district that levies the tax; providing an effective date.

—as amended April 29 was read the third time by title.

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

Amendment 1—On page 2, line 4, after "levied" insert: *Each county may establish one subcounty special district for the purpose of levying the tax authorized by this paragraph.*

On motion by Senator Rossin, **SB 2252** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Madam President	Crist	Jenne	Ostalkiewicz
Bankhead	Dantzler	Jones	Rossin
Bronson	Dudley	Kirkpatrick	Silver
Brown-Waite	Forman	Klein	Sullivan
Burt	Grant	Kurth	Thomas
Campbell	Gutman	Latvala	Turner
Casas	Hargrett	Lee	Williams
Childers	Harris	McKay	
Clary	Holzendorf	Meadows	
Cowin	Horne	Myers	

Nays—None

CS for CS for SB 64—A bill to be entitled An act relating to local option taxes; amending s. 125.0104, F.S.; revising provisions which authorize the levy of an additional local option tourist development tax to pay debt service on bonds for a professional sports franchise facility or convention center; revising the uses, and the conditions for use, of the revenues of said tax by certain high tourism impact counties; providing a definition of “convention center”; providing additional uses for the additional tax authorized to be levied by counties which levy said tax; amending s. 212.054, F.S.; exempting from newly enacted discretionary sales surtaxes levied by a high tourism impact county transactions that are subject to specified tourist development taxes in an aggregate rate that exceeds a specified maximum; amending s. 212.055, F.S.; authorizing charter counties and counties as defined in s. 125.011, F.S., to use the proceeds of local government infrastructure surtax revenues and interest thereon to retire or service indebtedness incurred for certain bonds and to refund bonds issued after a specified date; ratifying any use of such proceeds or interest for purposes of retiring or servicing indebtedness incurred before July 1, 1997, for refunding certain bonds; providing effective dates.

—as amended April 29 was read the third time by title.

On motion by Senator Bronson, **CS for CS for SB 64** as amended was passed and certified to the House. The vote on passage was:

Yeas—35

Madam President	Cowin	Holzendorf	McKay
Bankhead	Crist	Horne	Meadows
Bronson	Dantzler	Jenne	Myers
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Silver
Campbell	Forman	Klein	Thomas
Casas	Grant	Kurth	Turner
Childers	Gutman	Latvala	Williams
Clary	Hargrett	Lee	

Nays—1

Ostalkiewicz

Vote after roll call:

Yea—Harris

SB 1648—A bill to be entitled An act relating to public television and radio; prohibiting a public television or radio station funded by the state from merging with or allowing the use of its facilities by a private non-profit institution of higher learning; providing an effective date.

—was read the third time by title.

Senator Rossin moved the following amendment:

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

Section 1. Subsection (3), (4), and (5) are added to section 235.40, Florida Statutes, to read:

235.40 Radio and television facilities.—

(3) Any public television or public radio broadcasting entity receiving funding through Public Broadcasting Grants and Aids, General Appropriations Act, is prohibited from the sale, merger, or disposition of its assets, wholly or in part, to any private entity of its subsidiaries, not-for-profit or otherwise, without first issuing a Request for Proposal (RFP). Invitations to bid on the request for proposal will be accepted for 90 days after the date of first issuance and will be followed by a 60-day consideration period before a final selection is made. The winning bidder will be selected based upon, but not limited to, financial strength, managerial expertise, programming integrity, and the beneficial use of the entity's public broadcasting facilities to this state. Immediately upon the issuance of the request for proposal, all state appropriations to the issuing entity must be placed in a mandatory reserve fund until a bid selection is made. Any public television or public radio broadcasting entity that is not in compliance with any of the provisions of this section will be ineligible for funding identified in Public Broadcasting Grants and Aids, General Appropriations Act. The Governor shall appoint one qualified person to the board of each publicly owned television or radio broadcasting entity that receives state funding.

(4) If a state university or public institution of higher learning bids on and wins the request for proposal of a public television or public radio broadcasting entity, the acquired or merged entity's funding identified in Public Broadcasting Grants and Aids, General Appropriations Act, shall, for the first year only, be directed to the Board of Regents and applied toward the purchase price or equity position of the acquiring state university or public institution of higher learning.

(5) In fiscal year 1997-1998, state funding associated with Public Broadcasting Grants and Aids, General Appropriations Act, for South Florida Telecommunications, Inc. (WXEL-TV/FM, Channel 42), must be directed to the corporation through and under the control of the Board of Regents. The funds must be used to establish a percentage of ownership for Florida Atlantic University in South Florida Telecommunications, Inc. (WXEL-TV/FM).

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to public television and radio; prohibiting a public television or radio station receiving public funds, as specified, from selling, merging, or disposing of its assets to a private entity, except by issuing a request for proposal; providing procedures; providing funding consequences if a state university or public institution of higher learning wins the request for proposal; providing for redirection of funds allocated for fiscal year 1997-1998 to South Florida Telecommunications, Inc.; providing an effective date.

On motion by Senator Rossin, further consideration of **SB 1648** with pending **Amendment 1** was deferred.

HB 153—A bill to be entitled An act relating to excise tax on documents; amending s. 201.02, F.S.; providing that the tax on instruments relating to real property does not apply to certain conveyances between spouses or former spouses pursuant to an action for dissolution of marriage; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Horne, **HB 153** as amended was passed and certified to the House. The vote on passage was:

Yeas—35

Madam President	Casas	Dyer	Holzendorf
Bankhead	Childers	Forman	Horne
Bronson	Clary	Grant	Jenne
Brown-Waite	Cowin	Gutman	Jones
Burt	Crist	Hargrett	Kirkpatrick
Campbell	Dudley	Harris	Klein

Kurth	Myers	Silver	Turner
McKay	Ostalkiewicz	Sullivan	Williams
Meadows	Scott	Thomas	

Nays—None

Vote after roll call:

Yea—Lee, Rossin

Consideration of **HB 1357** was deferred.

HB 2031—A bill to be entitled An act relating to child support enforcement; amending s. 61.046, F.S.; defining the term “State Case Registry”; amending ss. 61.052, 382.008, 455.213, 455.2141, and 741.04, F.S.; requiring the inclusion of a person’s social security number in judgments for dissolution of marriage, in death certificates, in certain licensing provisions, and in certain other provisions of law; amending s. 61.13, F.S.; revising language with respect to orders for child support; amending s. 61.1301, F.S.; revising language with respect to income deduction; providing for income deduction notice; amending s. 61.13016, F.S.; revising notification requirements with respect to the suspension of the driver’s license of a child support obligor; amending s. 61.1354, F.S.; revising language with respect to the sharing of information between consumer reporting agencies and the IV-D agency; amending s. 61.14, F.S.; providing for the modification of certain support orders without a substantial change of circumstances; providing that workers’ compensation payments are not exempt from garnishment, attachment, execution, and assignment of income for the purpose of enforcing child or spousal support obligations; amending s. 61.181, F.S.; extending a date with respect to the central depository for receiving, recording, reporting, monitoring, and disbursing alimony, support, maintenance, and child support payments; amending s. 61.1812, F.S.; revising language with respect to the Child Support Incentive Trust Fund; amending s. 61.1814, F.S.; changing the name of the Child Support Enforcement Application and User Fee Trust Fund to the Child Support Enforcement Application and Program Revenue Trust Fund; amending s. 61.30, F.S.; providing that in certain Title IV-D cases no change of circumstances need to be proven to warrant a modification in child support payments; providing for retroactive child support under certain circumstances; providing that the Legislature shall review the child support guidelines at least every 4 years beginning in 1997; providing for a child support guidelines study; providing for a report; amending s. 88.1011, F.S.; revising definitions with respect to the Uniform Interstate Family Support Act; amending ss. 88.1021, 88.2031, and 88.3031, F.S.; conforming to the act; amending s. 88.2051, F.S., relating to continuing exclusive jurisdiction; amending s. 88.2071, F.S.; providing for the recognition of controlling child support orders; amending s. 88.3011, F.S.; correcting a cross reference; amending s. 88.3041, F.S.; providing a procedure when a responding state has not enacted a law similar to the Uniform Interstate Family Support Act; amending ss. 88.3051, 88.3061, 88.3071, and 88.6061, F.S.; deleting reference to first class mail for certain notification; amending s. 88.5011, F.S.; providing for the employer’s receipt of an income-withholding order of another state; creating s. 88.50211, F.S., relating to the employer’s compliance with the income-withholding order of another state; creating s. 88.5031, F.S.; providing for compliance with multiple income-withholding orders; creating s. 88.5041, F.S.; providing for immunity from civil liability; creating s. 88.5051, F.S.; providing for penalties for noncompliance; creating s. 88.5061, F.S.; providing for the contest by the obligor of the validity of enforcement of an income-withholding order under certain circumstances; transferring and renumbering s. 88.5021, F.S., to conform to the act; amending s. 88.6051, F.S.; revising language with respect to notice of registration of order; amending s. 88.6111, F.S.; revising language with respect to modification of a child support order of another state; amending s. 88.6121, F.S., relating to the recognition of an order modified in another state; creating s. 88.6131, F.S.; providing for jurisdiction to modify the child support order of another state when individual parties reside in this state; creating s. 88.6141, F.S.; providing for notice to the issuing tribunal of modifications; amending s. 88.7011, F.S.; revising language with respect to proceeding to determine parentage; creating s. 88.9051, F.S.; providing for rules; amending s. 213.053, F.S.; revising language with respect to confidentiality and information sharing by the Department of Revenue; amending ss. 231.17, 402.308, 548.021, and 626.171, F.S.; requiring the inclusion of the applicant’s social security number on applications for teaching certificates,

child care facility licenses, a license or permit issued by the State Athletic Commission, and certain insurance licenses; amending s. 320.05, F.S.; directing the Department of Highway Safety and Motor Vehicles to disclose certain information to child support enforcing agencies; amending s. 382.013, F.S.; providing for the use of certain information regarding registered births; providing for certain information to be given to unwed mothers; amending ss. 383.0112, 383.0113, and 383.216, F.S., relating to the Commission on Responsible Fatherhood; postponing date of a statewide symposium; revising appointment of commission members; providing terms; providing for assignment to the Department of Children and Family Services; providing for inclusion of certain programs in the plan of each prenatal and infant health care coalition; amending s. 409.2554, F.S.; correcting a cross reference; creating s. 409.25575, F.S.; providing for the privatization of child support enforcement; amending s. 409.2561, F.S.; revising language with respect to reimbursement for public assistance payments made for support of a child; amending s. 409.2564, F.S.; revising language with respect to actions for support; creating s. 409.25641, F.S.; providing procedures for processing interstate enforcement requests; amending s. 409.25645, F.S.; authorizing the use of administrative orders to require genetic testing in Title IV-D cases; amending s. 409.25656, F.S.; revising language with respect to garnishment; creating s. 409.25657, F.S.; providing requirements for financial institutions; amending s. 409.2567, F.S.; revising language with respect to services to individuals not otherwise entitled to delete reference to paternity determination; amending s. 409.2574, F.S.; directing the department to serve notice on the obligor with respect to income deduction notice; creating s. 409.2576, F.S.; creating a State Directory of New Hires; providing definitions, reports, and data; providing for service of deduction notices; providing disclosure; providing for rulemaking; amending s. 409.2577, F.S.; revising language with respect to the parent locator service; providing for certain notification; creating s. 409.2578, F.S.; providing for access to employment information; providing administrative fines; amending s. 409.2579, F.S.; revising language with respect to safeguarding Title IV-D case file information; amending s. 409.2598, F.S., relating to suspension or denial of new or renewal licenses, registrations, and certification; amending s. 414.028, F.S.; authorizing local WAGES coalitions to fund certain community-based welfare prevention and reduction initiatives; amending s. 443.171, F.S., relating to records and reports of employing units with respect to unemployment compensation; amending s. 443.1715, F.S., relating to the disclosure of certain information with respect to unemployment compensation; amending s. 742.031, F.S.; providing for the recording of each parties social security number on the order adjudicating paternity; providing that certain bills are admissible in evidence; providing requirements with respect to a judgment of paternity which does not contain an explicit award of custody; providing for temporary orders of child support; creating s. 742.032, F.S.; providing for the filing of location information; amending s. 742.10, F.S.; providing that certain persons may rescind an acknowledgment of paternity under certain circumstances; providing for certain rules; providing for the effect of a signed voluntary acknowledgement of paternity; amending s. 742.105, F.S., relating to the effect of a determination of paternity from a foreign jurisdiction; amending s. 742.12, F.S.; revising language with respect to scientific testing to determine paternity; amending s. 744.301, F.S.; revising language with respect to natural guardians; amending s. 943.053, F.S.; directing the Department of Law Enforcement to disclose certain information to the child support enforcement agency; exempting the Department of Revenue from the provisions of certain statutes to expedite the acquisition of goods and services and the leasing of facilities for the implementation of the act; directing the department to develop a draft request for a state disbursement unit and a state case registry; providing for a report; providing legislative findings with respect to protection of applicants and recipients of certain public assistance; repealing s. 443.175, F.S., relating to pilot projects; requiring a report from the Department of Revenue; providing effective dates.

—was read the third time by title.

On motion by Senator Dudley, **HB 2031** was passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Campbell	Crist	Gutman
Bankhead	Casas	Dantzler	Hargrett
Bronson	Childers	Dudley	Harris
Brown-Waite	Clary	Forman	Horne
Burt	Cowin	Grant	Jenne

Jones	Lee	Rossin	Turner	Ostalkiewicz	Scott	Sullivan	Turner
Kirkpatrick	McKay	Scott	Williams	Rossin	Silver		
Klein	Meadows	Silver		Nays—None			
Kurth	Myers	Sullivan		Vote after roll call:			
Latvala	Ostalkiewicz	Thomas					

Nays—None

Vote after roll call:

Yea—Dyer

CS for SB 1836—A bill to be entitled An act relating to assisted living; suspending provisions of s. 400.4075, F.S., and ch. 58A-5.029, F.A.C., relating to limited mental health licenses; amending s. 400.402, F.S.; revising definitions; providing additional definitions; amending s. 400.407, F.S.; correcting cross references; revising requirements for monitoring visits conducted by a representative of the Agency for Health Care Administration; revising requirements for admitting an individual to a facility that provides extended congregate care services; deleting an additional license fee assessed against facilities that provide limited mental health services; amending s. 400.4075, F.S.; revising requirements for a facility in obtaining a limited mental health license; requiring a facility that holds a limited mental health license to maintain a copy of the community living support plan and a cooperative agreement for each mental health resident and verify that such resident meets certain requirements; amending s. 400.426, F.S.; revising provisions to reflect the transfer of certain duties to the Department of Children and Family Services; providing that an assessment completed through the Comprehensive Assessment and Review for Long-Term Care Services (CARES) Program fulfills certain requirements for a medical examination; requiring certain documentation for a mental health resident who resides in an assisted living facility that holds a limited mental health license; providing for an evaluation of a mental health resident in certain instances; amending s. 400.628, F.S.; prohibiting the use of restraints in adult family-care homes; requiring a study relating to certified medication technicians; requiring a report; amending s. 394.455, F.S.; revising definitions to reflect the transfer of duties to the Department of Children and Family Services; creating s. 394.4574, F.S.; providing requirements under the Baker Act for the Department of Children and Family Services with respect to a mental health resident who resides in an assisted living facility that holds a limited mental health license; providing certain department responsibilities related to a mental health resident; amending ss. 409.212, 651.011, and 651.118, F.S.; correcting cross references; amending s. 409.912, F.S.; requiring an entity that provides Medicaid prepaid health services to coordinate health care services with an assisted living facility in certain instances; requiring establishment of a workgroup on procurement of services for assisted living facilities with a limited mental health license; requiring a report; creating s. 400.4178, F.S.; providing standards for facilities that provide special care for persons with Alzheimer's disease and other related disorders; providing employee training requirements; providing continuing education requirements; providing for approval of education courses and providers; providing for fees; providing for rules; amending s. 400.452, F.S.; including education on Alzheimer's disease and related disorders in the core educational requirement for facility administrators and staff; amending s. 430.502, F.S.; revising provisions relating to establishing memory disorder clinics; creating an additional clinic; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Rossin, **CS for SB 1836** as amended was passed and certified to the House. The vote on passage was:

Yeas—34

Madam President	Childers	Forman	Klein
Bankhead	Clary	Grant	Kurth
Bronson	Cowin	Gutman	Latvala
Brown-Waite	Crist	Harris	Lee
Burt	Dantzler	Jenne	McKay
Campbell	Dudley	Jones	Meadows
Casas	Dyer	Kirkpatrick	Myers

Yea—Williams

CS for HB 1683—A bill to be entitled An act relating to local government; amending s. 11.45, F.S.; revising provisions which provide requirements for annual financial audits of local governmental entities by independent certified public accountants; requiring the auditor to notify each member of the governing body of such an entity of certain deteriorating financial conditions; providing duties of the Auditor General upon identification of information in an audit report that indicates a local governmental entity may be in a state of financial emergency; amending s. 125.901, F.S.; correcting a reference; amending s. 165.041, F.S., relating to merger of local government entities, to conform; amending s. 189.403, F.S.; redefining "dependent special district" and defining "public facilities" under the Uniform Special District Accountability Act of 1989; providing that, for purposes of the ad valorem tax exemption for governmental units, special districts shall be treated as municipalities; providing for retroactive effect; amending s. 189.4031, F.S.; removing provisions relating to applicability to certain dependent special districts; requiring independent special district charters to contain certain information; amending s. 189.404, F.S.; deleting a requirement that the law creating an independent special district provide a method for dissolving the district; specifying that only the Legislature may create an independent special district, except as otherwise authorized by law; requiring a status statement in a district charter; amending s. 189.4041, F.S.; providing requirements for creation of dependent special districts by county or municipal ordinance; amending s. 189.4042, F.S.; providing merger and dissolution requirements for special districts; repealing s. 189.4043, F.S., which provides special district dissolution procedures; amending s. 189.4044, F.S.; providing procedures and requirements for declaration that a district is inactive; amending s. 189.4045, F.S.; revising provisions relating to financial allocations upon merger or dissolution; creating s. 189.4047, F.S.; providing for refund of special assessments levied by a dependent special district under certain conditions; providing for retroactive effect; amending s. 189.405, F.S.; revising election procedures and requirements for special districts; providing method of qualifying and providing for fees; amending s. 189.4051, F.S.; revising the special requirements and procedures for elections for districts with governing boards elected on a one-acre/one-vote basis; amending s. 189.412, F.S.; revising provisions relating to the duties of the Special District Information Program; removing the requirement for organization of a biennial conference; amending s. 189.415, F.S.; revising requirements relating to special districts' public facilities reports and providing for annual notice of changes thereto; amending s. 189.4155, F.S.; revising requirements relating to consistency of special district facilities with local government comprehensive plans and providing that such requirements do not apply to certain spoil disposal sites; providing that certain ports are deemed to be in compliance with said section; amending s. 189.416, F.S.; revising the time for designation of a registered office and agent; amending s. 189.417, F.S.; requiring publication of special district meeting schedules and revising requirements for filing such schedules; amending s. 189.421, F.S.; revising provisions relating to initiation of enforcement proceedings against districts that fail to file certain reports; amending s. 189.422, F.S.; revising provisions which authorize department action if a district is determined to be inactive or if failure to file reports is determined to be volitional; amending s. 189.425, F.S.; revising provisions relating to rulemaking authority; creating s. 189.428, F.S.; establishing an oversight review process for special districts and providing requirements with respect thereto; specifying who should carry out the review; providing review criteria; providing for a final report and providing requirements for a plan for merger or dissolution of a district under review; providing exemptions; requiring districts to submit a draft codified charter so that their special acts may be codified by the Legislature; amending s. 196.012, F.S.; revising provisions which specify when a governmental, municipal, or public purpose is deemed to be served by a lessee of government property for ad valorem tax exemption purposes; specifying additional activities that are deemed to serve such purposes; amending s. 200.069, F.S.; authorizing inclusion in the notice of proposed property taxes of a notice of adopted non-ad valorem assessments and providing requirements with respect thereto; providing effective dates.

—was read the third time by title.

On motion by Senator Rossin, **CS for HB 1683** was passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Crist	Jenne	Ostalkiewicz
Bankhead	Dantzler	Jones	Rossin
Bronson	Diaz-Balart	Kirkpatrick	Scott
Brown-Waite	Dudley	Klein	Silver
Burt	Dyer	Kurth	Sullivan
Campbell	Forman	Latvala	Turner
Casas	Grant	Lee	Williams
Childers	Harris	McKay	
Clary	Holzendorf	Meadows	
Cowin	Horne	Myers	

Nays—None

Vote after roll call:

Yea—Gutman

EXPLANATION OF VOTE

The language included in CS for HB 1683, affecting deepwater port ad valorem taxation, was not intended to disrupt the inter-local agreement between the Port of Palm Beach and the City of Riviera Beach.

Ron Klein, 28th District

CS for SB 918—A bill to be entitled An act relating to ad valorem taxation; amending s. 192.001, F.S.; defining the term “computer software” for purposes of imposing ad valorem taxes; specifying circumstances under which computer software constitutes personal property; amending s. 196.012, F.S.; redefining the term “educational institution,” for purposes of the exemption of such institutions from ad valorem taxation, to include certain schools providing postgraduate dental education; providing for application of the act; amending s. 196.195, F.S.; providing that certain corporations are nonprofit; amending s. 196.196, F.S.; providing criteria for determining if an applicant is using its property for a charitable, religious, scientific, or literary purpose; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Burt, **CS for SB 918** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Crist	Jones	Rossin
Bankhead	Dantzler	Kirkpatrick	Scott
Bronson	Dudley	Klein	Silver
Brown-Waite	Dyer	Kurth	Sullivan
Burt	Grant	Latvala	Thomas
Campbell	Hargrett	Lee	Turner
Casas	Harris	McKay	Williams
Childers	Holzendorf	Meadows	
Clary	Horne	Myers	
Cowin	Jenne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Gutman

CS for SB 972—A bill to be entitled An act relating to vehicles used by state agencies; requiring a report from agency inspectors general on employee use of state motor vehicles; amending s. 287.16, F.S., relating to the powers of the Division of Motor Pool of the Department of Management Services; authorizing the division to operate a centralized vehicle leasing program; providing for the deposit of lease payments; specifying the use of lease payments; requiring a report to be submitted biennially

to agency inspectors general; amending s. 287.17, F.S.; providing definitions; providing criteria to be followed by an agency head in assigning a state-owned motor vehicle to an employee; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Williams, **CS for SB 972** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Crist	Holzendorf	Rossin
Bankhead	Dantzler	Jenne	Scott
Bronson	Diaz-Balart	Jones	Silver
Brown-Waite	Dudley	Kirkpatrick	Sullivan
Burt	Dyer	Kurth	Thomas
Campbell	Forman	Latvala	Turner
Casas	Grant	Lee	Williams
Childers	Gutman	Meadows	
Clary	Hargrett	Myers	
Cowin	Harris	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Horne, McKay

On motion by Senator Dyer, by two-thirds vote **HB 755** was withdrawn from the Committees on Education; Governmental Reform and Oversight; and Ways and Means.

On motions by Senator Dyer, by two-thirds vote—

HB 755—A bill to be entitled An act relating to postsecondary education; amending s. 110.131, F.S.; deleting the requirement that the Board of Regents comply with recordkeeping and reporting requirements for other-personal-services employment; amending s. 235.055, F.S.; deleting authority of the Board of Regents to construct facilities on leased property and enter into certain leases; amending s. 235.195, F.S.; modifying provisions relating to joint-use facilities; amending s. 240.1201, F.S.; classifying specified Canadian military personnel as residents for tuition purposes; amending s. 240.147, F.S.; correcting a cross reference; amending s. 240.205, F.S.; revising the acquisition and contracting authority of the Board of Regents; amending s. 240.209, F.S.; authorizing procedures to administer an acquisition program; authorizing the Board of Regents to sell, convey, transfer, exchange, trade, or purchase real property and related improvements; providing requirements; amending s. 240.214, F.S.; revising provisions relating to the State University System accountability process; amending s. 240.227, F.S.; revising the acquisition and contracting authority of university presidents; authorizing adjustment of property records and disposal of certain tangible personal property; amending s. 240.289, F.S.; revising rulemaking for credit card use; amending s. 243.151, F.S.; providing a procedure under which a university may construct facilities on leased property; amending s. 287.012, F.S.; excluding the Board of Regents and the State University System from the term “agency” for purposes of state procurement of commodities and services; repealing ss. 240.225, 240.247, 240.4988(4), and 287.017(3), F.S., relating to delegation of authority by the Department of Management Services to the State University System, eradication of salary discrimination, Board of Regents’ rules for the Theodore R. and Vivian M. Johnson Scholarship Program, and applicability of purchasing category rules to the State University System; amending s. 240.2475, F.S., relating to the State University System equity accountability program; requiring each state university to maintain an equity plan to increase the representation of women and minorities in faculty and administrative positions; providing for the submission of reports; requiring the development of a plan for achievement of equity; providing for administrative evaluations; requiring the development of a budgetary incentive plan; providing for an appropriation; amending s. 240.3355, F.S., relating to the State Community College System equity accountability program; requiring each community college to maintain a plan to increase the representation of women and minorities in faculty and administrative positions; providing contents of an employment accountability plan; requiring the development of a plan for corrective action; providing for administrative evaluations; providing for submission of reports; requiring the development of a budgetary incentive plan; providing an effective date.

—a companion measure, was substituted for **CS for SB's 1414 and 228** as amended and read the second time by title.

Senator Dyer moved the following amendment which was adopted:

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

Section 1. Paragraph (a) of subsection (6) of section 110.131, Florida Statutes, 1996 Supplement, is amended to read:

110.131 Other-personal-services temporary employment.—

(6)(a) The provisions of subsections (2), (3), and (4) do not apply to any employee for whom the Board of Regents or the Board of Trustees of the Florida School for the Deaf and the Blind is the employer as defined in s. 447.203(2); except that, for purposes of subsection (5), ~~the Board of Regents and the Board of Trustees of the Florida School for the Deaf and the Blind shall comply with the recordkeeping and reporting requirements adopted by the department pursuant to subsection (3) with respect to those other-personal-services employees exempted by this subsection.~~

Section 2. Section 235.055, Florida Statutes, is amended to read:

235.055 Construction of facilities on leased property; conditions.—

(1) ~~A board may~~ ~~boards, including the Board of Regents, are authorized to construct or place educational facilities and ancillary facilities on land that which is owned by any person after the board has acquired from the owner of the land a long-term lease for the use of this land for a period of not less than 40 years or the life expectancy of the permanent facilities constructed thereon, whichever is longer.~~

(2) A board ~~may, including the Board of Regents, is authorized to enter into a short-term lease for the use of land owned by any person on which temporary or relocatable facilities are to be utilized.~~

Section 3. Subsections (2) and (4) of section 235.195, Florida Statutes, are amended to read:

235.195 Cooperative development and use of facilities by two or more boards.—

(2) An educational plant survey must be conducted within 90 days after submission of the joint resolution and substantiating data describing the benefits to be obtained, the programs to be offered, and the estimated cost of the proposed project. Upon completion of the educational plant survey, the participating boards may include the recommended projects in their plan as ~~provided in s. 235.16. Upon approval of the project by the commissioner, up to 25 percent of the total cost of the project must be included in the department's legislative capital outlay budget request as provided in s. 235.41 for educational plants.~~ The participating boards must include in their joint resolution a commitment to finance the remaining funds necessary to complete the planning, construction, and equipping of the facility. Funds from the Public Education Capital Outlay and Debt Service Trust Fund may not be expended on any project unless specifically authorized by the Legislature.

(4) ~~No school board, community college, or state university shall receive funding for more than one approved joint use facility in any 5-year period effective August 1, 1990. All projects previously approved under the provisions of this section shall not be affected. The first year of the 5-year period shall be the first year a board receives an appropriation.~~

Section 4. Subsection (6) of section 240.205, Florida Statutes, is amended to read:

240.205 Board of Regents incorporated.—The Board of Regents is hereby created as a body corporate with all the powers of a body corporate for all the purposes created by, or that may exist under, the provisions of this chapter or laws amendatory hereof and shall:

(6) Acquire real and personal property and contract for the sale and disposal of same and approve and execute contracts for *the acquisition of commodities, goods, equipment, contractual or services, including educational services* for leases of real and personal property, and for construction, ~~in accordance with chapter 287, as applicable.~~ The acquisition

may include purchase by installment or lease-purchase. Such contracts may provide for payment of interest on the unpaid portion of the purchase price. The board may also acquire the same *commodities, goods, equipment, contractual services, leases, and construction, as designated for the board*, for use by a university when the contractual obligation exceeds ~~\$1 million~~ *\$500,000*. Title to all real property, however acquired, shall be vested in the Board of Trustees of the Internal Improvement Trust Fund and shall be transferred and conveyed by it.

Section 5. Paragraphs (p), (q), and (r) of subsection (3) of section 240.209, Florida Statutes, 1996 Supplement, are amended, a new paragraph (u) is added to that subsection, and subsection (8) of that section is amended, to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(p) Notwithstanding the provisions of ss. 216.044, 255.248, 255.249, 255.25, 255.28, 255.29, and 287.055, adopt rules to administer a program for the maintenance and construction of facilities in the State University System. *The board may and to secure, or otherwise provide as a self-insurer pursuant to s. 440.38(6), workers' compensation coverage for contractors and subcontractors, or each of them, employed by or on behalf of the Board of Regents, or by or on behalf of a state university, when performing work on or adjacent to property owned or used by the Board of Regents or the State University System.*

(q) ~~Adopt rules to~~ Ensure compliance with the provisions of ss. 287.055 and s. 287.0945, for all State University System procurement, and, additionally, ss. 255.05, 255.051, 255.0516, 255.0525, 255.101, and 255.102, for construction contracts, and rules adopted pursuant thereto, relating to the utilization of minority business enterprises, except that procurements costing less than the amount provided for in CATEGORY FIVE as provided in s. 287.017 ~~are shall~~ not be subject to s. 287.0945(7)(a).

(r) Adopt such rules as are necessary to carry out its duties and responsibilities *including, but not limited to, procedures for administering an acquisition program for the purchase or lease of real and personal property and contractual services under s. 240.205(6).*

(u) *Provide for a program of multi-year appointments whereby the universities are authorized to appoint employees, including ranked faculty members, for a fixed term of employment.*

(8)(a) *The Board of Regents, with the consent of the Board of Trustees of the Internal Improvement Trust Fund, may sell, convey, transfer, exchange, trade, or purchase real property and related improvements as necessary and desirable to serve the needs and purposes of a university in the State University System.*

(b) *Notwithstanding s. 253.025 or s. 287.057, when the board finds it to be in the best interest of timely property acquisition, it may contract without the need for competitive selection with one or more appraisers whose names are contained on the list of approved appraisers which is maintained by the Division of State Lands of the Department of Environmental Protection in accordance with s. 253.025(6). If the board directly contracts for appraisal services, it must also contract for review services with an approved appraiser who is not employed by the same appraisal firm.*

(c) *The board may negotiate and enter into an option contract before an appraisal is obtained. The option contract must state that the final purchase price may not exceed the maximum value allowed by law. The consideration for such an option contract may not exceed 10 percent of the estimate obtained by the board or 10 percent of the value of the parcel, whichever is greater, unless otherwise authorized by the board.*

(d) *This subsection does not abrogate in any manner the authority of the Board of Trustees of the Internal Improvement Trust Fund or of the Division of State Lands to approve a contract for purchase of state lands or to require specified policies and procedures for obtaining clear legal title to parcels that are purchased for state purposes. Title to property acquired by the board shall vest in the Board of Trustees of the Internal Improvement Trust Fund. Notwithstanding any other provisions of this subsection, the Board of Regents shall comply with the provisions of s. 287.055 for the procurement of professional services as defined in that section. Notwithstanding the provisions of s. 283.33, books published by*

the State University System press shall not be subject to the bid requirements provided in s. 287.017.

Section 6. Subsections (1) and (3) of section 240.2097, Florida Statutes, are amended to read:

240.2097 Education programs, limited access status; transfer students; student handbook; rules.—The Board of Regents shall adopt rules to include the following provisions:

(1) The criteria for assigning limited access status to an educational program shall be delineated. A process for the periodic review of programs shall be identified so that the board can determine the need for retention or removal of limited access status. ~~The board shall provide in a report to the Legislature, by institution, a list of all limited access programs, the minimum admission standards for each program, and a copy of the most recent review demonstrating the need for retention of limited access status. Such report shall be submitted by December 1, 1990, and annually thereafter.~~

(3) Each university shall ~~review compile~~ and update ~~as necessary annually~~ a student handbook that includes, but is not limited to, a ~~comprehensive calendar that emphasizes important dates and deadlines,~~ student rights and responsibilities, appeals processes available to students, a roster of contact persons within the administrative staff available to respond to student inquiries, and a statement as to the State University System policy on acquired immune deficiency syndrome including the name and telephone number of the university acquired immune deficiency syndrome counselor. Each student handbook must include a statement displayed prominently which provides that the university will not tolerate the sale, possession, or use of controlled substances, with the exception of medication prescribed by a physician and taken in accordance with the prescribed usage, nor will the university tolerate the consumption of alcoholic beverages by students younger than 21 years of age or the sale of alcoholic beverages to students younger than 21 years of age. Each student handbook must also list the legal and university-specific sanctions that will be imposed upon students who violate the law or university policies regarding controlled substances and alcoholic beverages.

Section 7. Paragraph (a) of subsection (1) of section 240.2111, Florida Statutes is amended to read:

240.2111 Employee recognition program.—

(1)(a) Notwithstanding the provisions of s. 110.1245, the Board of Regents and each university shall ~~develop procedures promulgate rules~~ for an employee recognition program ~~that which~~ provides for the following components:

1. A ~~superior-accomplishment superior accomplishment~~ component to recognize employees who have contributed outstanding and meritorious service in their fields, including those who have made exceptional contributions to efficiency, economy, or other improvement in State University System operations. A ~~No~~ cash award under the ~~superior-accomplishment superior accomplishment~~ component of the program ~~may not shall~~ exceed \$1,000, excluding applicable taxes.

2. A ~~satisfactory-service satisfactory service~~ component to recognize employees who have achieved increments of 5 continuous years of satisfactory service to the Board of Regents, university, or state in appreciation and recognition of such service. A ~~No~~ cash award granted under the ~~satisfactory-service satisfactory service~~ component ~~may not shall~~ exceed \$50, excluding applicable taxes.

Section 8. Section 240.214, Florida Statutes, 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 further intent of the Legislature that this accountability process monitor performance at the system level ~~and at the individual university level~~ in each of the major *program* areas of instruction, research, and public service, while recognizing the differing missions of each of the state universities. The accountability process ~~must shall~~ provide for the adoption of systemwide *program performance goals and measures 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 ~~must shall~~ result in an annual accountability reports by the State University System and each university, ~~which must be submitted to the Legislature by December 31 of each year report to the Legislature.~~

(1) ~~The State University System and each university must use the identified measures in their accountability reports to report the level of performance toward meeting program goals and must identify performance standards against which each subsequent year's progress will be measured. The program goals and standards adopted through the accountability process must be consistent with the goals and objectives in the strategic plan required by s. 240.209 and with the performance-based program budgeting process required by s. 216.0166. The annual accountability report shall include goals and measurable objectives related to the systemwide strategic 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.~~

(2) ~~By December 31 of each year, the Board of Regents shall submit the annual accountability report providing information on the implementation of performance standards, actions taken to improve university achievement of performance goals, the achievement of performance goals during the prior year, and initiatives to be undertaken during the next year. The accountability reports must shall be designed in consultation with the Governor's Office, the Office of Program Policy Analysis and Government Accountability the Auditor General, and the Legislature.~~

(3) The Board of Regents shall recommend in the annual accountability report any appropriate modifications to this section.

Section 9. 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 has responsibility and accountability for decisions and operations at the university level. Each university president may communicate freely his or her ideas and represent his or her institution to the Board of Regents, state and federal legislators, state officials, faculty and staff, students, parents, alumni, supporters, the general public, and other constituencies. Each university president shall communicate with the Chancellor and the Board of Regents in a timely fashion and the Chancellor shall communicate with the presidents in a timely fashion. The president is appointed, evaluated, and removed by the Board of Regents, serves under conditions of employment as set by the board, and is responsible to the board.* Each university president shall:

(1) Develop and adopt rules governing the operation and administration of the university. Such rules ~~must shall~~ be consistent with the mission of the university and statewide rules and policies and ~~must shall~~

assist in the development of the university in a manner *that which* will complement the missions and activities of the other universities for the overall purpose of achieving the highest quality of education for the citizens of the state.

(2) Prepare a budget request to be transmitted to the Board of Regents. ~~The~~ Such request *must shall* be prepared in accordance with the fiscal policy guidelines, formats, and instructions prescribed by the Board of Regents.

(3) Develop an operating budget.

(4) Conduct biennially a space utilization study to support the university budget request for capital outlay.

(5) Appoint university personnel and provide for the compensation and other conditions of employment consistent with applicable collective bargaining agreements and the Board of Regents rule for university personnel who are exempt from chapter 110.

(6) Certify annually to the Board of Regents the actual classroom contact hours conducted by each faculty member.

(7) Maintain all data and information pertaining to the operation of the university.

(8) Govern admissions, subject to rules of the Board of Regents and as provided in s. 240.233.

(9) Develop a program of continuing education and establish, pursuant to rules and guidelines adopted by the Board of Regents, fees for continuing education activities within the university service area when there is a demonstrated and justified need. The university is authorized to cooperate with any public utility, any other governmental entity or private individual, or any type of *for-profit profit* or nonprofit legal entity in connection with the establishment and operation of such a continuing education program, *by means* including the acceptance of money and other things of value.

(10) Provide and coordinate credit and noncredit extension courses in all fields which the university considers necessary to improve and maintain the educational standards of the university service area.

(11) Make rules necessary for the establishment and maintenance of a personnel exchange program, by which persons employed within the university as instructional and research faculty and comparable administrative and professional staff may be exchanged with persons employed in like capacities by institutions of higher learning which are not under the jurisdiction of the university, by units of government either within or without this state, or by private industry. The salary and benefits of State University System and state personnel participating in the exchange program *must shall* be continued *while they are participating during the period of time they participate* in the exchange program, and such personnel *shall be deemed to have no break in creditable or continuous state service or employment during the period of time during in which such personnel they* participate in the exchange program *does not constitute a break in their creditable or continuous state service or employment*. The salary and benefits of persons participating in the personnel exchange program who are employed by institutions of higher learning which are not under the jurisdiction of the university, by units of government either within or without this state, or by private industry shall be paid by the originating employers of those participants. The duties and responsibilities of a person *who is* participating in the exchange program *must shall* be the same as those of the person he or she replaces.

(12) Approve and execute contracts for *the acquisition of commodities, goods, for equipment, for services, including educational services, for leases of for real and personal property, and for construction* to be rendered to or by the university, provided such contracts are made pursuant to *rules of the Board of Regents the provisions of chapter 287, as applicable*, are for the implementation of approved programs of the university, and do not require expenditures in excess of \$1 million \$500,000. *The acquisition Goods and equipment may be made acquired* by installment or lease-purchase contract. Such contracts may provide for the payment of interest on the unpaid portion of the purchase price. *Notwithstanding any other provisions of this subsection, the university presidents shall comply with the provisions of s. 287.055 for the procurement of professional services as defined in that section.*

(13) Manage the property and financial resources of the university, *including, but not limited to, adjusting property records and disposing of state-owned tangible personal property in the university's custody in accordance with procedures established by the Board of Regents pursuant to s. 240.225. Notwithstanding s. 273.055(5), all moneys received from the disposition of state-owned tangible personal property must be retained by the university and disbursed for the acquisition of tangible personal property and for all necessary operating expenditures. The university shall maintain records of the accounts into which such moneys are deposited.*

(14) Establish the internal academic calendar of the university within general guidelines of the Board of Regents.

(15) Administer the university's program of intercollegiate athletics.

(16) Recommend to the Board of Regents the establishment and termination of degree programs within the approved role and scope of the university.

(17) Award degrees.

(18) Supervise all construction contracts.

(19) Administer personnel programs established by the Board of Regents and any applicable collective bargaining agreements under the supervision of the Board of Regents.

(20) Recommend to the Board of Regents any fees applicable to the university and not otherwise prescribed by law.

(21) Organize the university *so as to efficiently and effectively* achieve *efficiently and effectively* the goals of the university; however, any reorganization *that which* increases the number of administrators or their level of compensation *is subject to the review and approval of shall be reviewed and approved* by the Board of Regents.

(22) Review periodically the operations of the university in order to determine whether the rules and policies of the Board of Regents and the universities are being followed and to determine how effectively and efficiently the university is being administered.

(23) Otherwise provide for the effective operation of the university in the achievement of the goals established for it in the strategic plan adopted by the Board of Regents.

(24) Adopt rules and enter into agreements for student exchange programs *that which* involve students at the university and students in institutions of higher learning, either within or without the state, which are not in the State University System. Such agreements may provide that the tuition and fees of a student who is enrolled in a university in the State University System and who is participating in an exchange program *are to shall* be paid to the state university *while during the period of time he or she is participating in the exchange program*. Such agreements may also provide that the tuition and fees of a student who is enrolled in an institution *that which* is not in the State University System and who is participating in an exchange program *are to shall* be paid to the nonstate institution in which he or she is enrolled.

(25) *Approve and execute general construction contracts within guidelines established by the Board of Regents. As used in this subsection, the term "general construction contract" means a contract for a project that is publicly bid and awarded to the lowest responsive and responsible bidder, and does not include agreements covering any projects contracted through design-build, construction management, or program management procedures, or contracts with professional consultants under s. 287.055.*

Section 10. Subsection (16) is added to section 240.241, Florida Statutes, 1996 Supplement, to read:

240.241 Divisions of sponsored research at state universities.—

(16) Section 216.346 does not apply to contracts or subcontracts between state universities.

Section 11. Section 240.2605, Florida Statutes, is amended to read:

240.2605 Trust Fund for Major Gifts.—

(1) There is established a Trust Fund for Major Gifts. *The purpose of the Such trust fund is to enable shall provide the Board of Regents Foundation, each university, and New College with the opportunity to provide donors with an incentive in the form of matching grants for donations for the establishment of permanent endowments, which must shall be invested, with the proceeds of the investment used to support libraries and instruction and research programs, as defined by procedure rule of the Board of Regents. All funds appropriated for the challenge grants, new donors, major gifts, or eminent scholars program must shall be deposited into the trust fund and invested pursuant to the provisions of s. 18.125 until the Board of Regents allocates the such funds to universities to match private donations. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any undisbursed balance remaining in the trust fund and interest income accruing to the portion of the trust fund which is not matched and distributed to universities must remain in the trust fund and used to shall increase the total funds available for challenge grants. The Board of Regents may authorize any university to encumber the state matching portion of a challenge grant from funds available under s. 240.272.*

(2) The Board of Regents shall specify the process for submission, documentation, and approval of requests for matching funds, accountability for endowments and proceeds of endowments, allocations to universities, restrictions on the use of the proceeds from endowments, and criteria used in determining the value of donations.

(3)(a) *The Board of Regents shall allocate the amount appropriated to the trust fund shall be allocated by the Board of Regents to the Board of Regents Foundation, each university, and New College based on the amount of the donation and the restrictions applied to the donation.*

(b) Donations for a specific purpose *must be* are matched in the following manner:

1. *The Board of Regents Foundation and each university that raises at least \$100,000 but no more than \$599,999 from a private source must shall receive a matching grant equal to 50 percent of the private contribution.*

2. *The Board of Regents Foundation and each university that raises a contribution of at least \$600,000 but no more than \$1 million from a private source must shall receive a matching grant equal to 70 percent of the private contribution.*

3. *The Board of Regents Foundation and each university that raises a contribution in excess of \$1 million but no more than \$1.5 million from a private source must shall receive a matching grant equal to 75 percent of the private contribution.*

4. *The Board of Regents Foundation and each university that raises a contribution in excess of \$1.5 million but no more than \$2 million from a private source must shall receive a matching grant equal to 80 percent of the private contribution.*

5. *The Board of Regents Foundation and each university that raises a contribution in excess of \$2 million from a private source must shall receive a matching grant equal to 100 percent of the private contribution.*

(c) The Board of Regents shall encumber state matching funds for any pledged contributions, pro rata, based on the requirements for state matching funds as specified for the particular challenge grant and the amount of the private donations actually received by the university or Board of Regents Foundation for the respective challenge grant.

(4) Matching funds may be provided for contributions encumbered or pledged under the Florida Endowment Trust Fund for Eminent Scholars Act prior to July 1, 1994, and for donations or pledges of any amount equal to or in excess of the prescribed minimums which are pledged for the purpose of this section.

(5)(a) *The Board of Regents Foundation, each university foundation, and New College Foundation shall establish a challenge grant account for each challenge grant as a depository for private contributions and state matching funds to be administered on behalf of the Board of Regents, the university, or New College. State matching funds must shall be transferred to a university foundation or New College Foundation upon notification that the university or New College has received and*

deposited the amount specified in this section in a foundation challenge grant account.

(b) The foundation serving a university and New College Foundation *has shall have* the responsibility for the maintenance and investment of its challenge grant account and for the administration of the program on behalf of the university or New College, pursuant to procedures specified by the Board of Regents. Each foundation shall include in its annual report to the Board of Regents information concerning collection and investment of matching gifts and donations and investment of the account.

(c) A donation of at least \$600,000 and associated state matching funds may be designated as an Eminent Scholar Endowed Chair pursuant to procedures specified by the Board of Regents.

(6) The donations, state matching funds, or proceeds from endowments established *under pursuant to* this section *may shall* not be expended for the construction, renovation, or maintenance of facilities or for the support of intercollegiate athletics.

(7) *The Board of Regents Foundation may participate in the same manner as a university foundation with regard to the provisions of this section.*

Section 12. Section 240.274, Florida Statutes, is amended to read:

240.274 Universities; public documents distributed to libraries.—The general library of each institution in the State University System is entitled to receive copies of reports of state officials, departments, and institutions and all other state documents published by the state. Each officer of the state empowered by law to distribute such public documents is authorized to transmit without charge, except for payment of shipping costs, the number of copies of each public document desired upon requisition from the librarian. It is the duty of the library to keep public documents in a convenient form accessible to the public. The library, ~~under rules formulated by the Board of Regents,~~ is authorized to exchange documents for those of other states, territories, and countries.

Section 13. Subsection (1) of section 240.2803, Florida Statutes, is amended to read:

240.2803 Auxiliary enterprises; contracts, grants, and donations; definitions.—As used in s. 19(f)(3), Art. III of the State Constitution, the term:

(1) "Auxiliary enterprises" includes activities that directly or indirectly provide a *product or service, or both,* to a university or its students, faculty, or staff and for which a *charge may be made but such charge, except for a fee that is a condition of the student enrollment and registration process, is not imposed by the Legislature is charged a fee related to, but not necessarily in an amount that will cover, the cost of the service.* These Auxiliary enterprises are generally the activities of a university and are as a unit generally self-sufficient. *These enterprises operations, and include activities such as housing, bookstores, student health services, continuing education programs, food services, college stores, vending machines, specialty shops, day care centers, golf courses, student activities programs, data center operations, financial aid programs, and intercollegiate athletics programs, and other programs for which the funds are deposited outside the State Treasury. Fees that are a condition of the student enrollment and registration process are state revenues for purposes of Article VII, Section 1(e) of the State Constitution.*

Section 14. Subsection (9) of section 240.281, Florida Statutes, is amended to read:

240.281 Deposit of funds received by institutions and agencies in the State University System.—All funds received by any institution or agency in the State University System, from whatever source received and for whatever purpose, shall be deposited in the State Treasury subject to disbursement in such manner and for such purposes as the Legislature may by law provide. The following funds shall be exempt from the provisions of this section and, with the approval of the Board of Regents, may be deposited outside the State Treasury:

(9) Such other funds as may be approved by the Board of Regents and the Executive Office of the Governor *and pursuant to s. 216.177.*

Section 15. Present subsections (3) and (4) of section 243.151, Florida Statutes, are redesignated as subsections (4) and (5), respectively, and amended, and a new subsection (3) is added to that section, to read:

243.151 Lease agreements; land, facilities.—

(3) Upon approval by the Board of Regents, a university may:

(a) Construct educational facilities on land that is owned by a direct support organization, as defined in s. 240.299, or a governmental agency at the federal, state, county, or municipal level, if the university has acquired a long-term lease for the use of the land. The lease must be for at least 40 years or for the period of time during which the facilities that are to be constructed on the land are expected to remain in a condition acceptable for use, whichever is longer.

(b) Acquire a short-term lease from one of the entities listed in paragraph (a) for the use of land, if adequate temporary or relocatable facilities are available on the land.

(c) Enter into a short-term lease for the use of land and buildings upon which capital improvements may be made.

If sufficient land is not available from any of the entities listed in paragraph (a), a university may acquire a short-term lease from a private landowner or developer.

(4)(3) Agreements as provided in this section ~~must shall~~ be entered into with an offeror resulting from publicly announced competitive bids or proposals, except that the university may enter into an agreement with the entities enumerated in paragraph (3)(a) for leasing land or with a direct-support organization as provided in s. 240.299, which ~~may shall~~ enter into subsequent agreements for financing and constructing the project *only* after receiving competitive bids or proposals. Any facility constructed, lease-purchased, or purchased under such agreements, whether erected on land under the jurisdiction of the university or not, ~~must shall~~ conform to the construction standards and codes applicable to university facilities. The Board of Regents shall adopt such rules as are necessary to carry out its duties and responsibilities imposed by this section.

(5)(4) Agreements executed by the Board of Regents prior to January 1, 1980, for the purposes listed herein shall be validated, and said board's capacity to act in such cases ratified and confirmed.

Section 16. Section 240.289, Florida Statutes, is amended to read:

240.289 Credit and charge card use in university system; authority.—~~The several universities in the State University System may, notwithstanding are authorized, pursuant to s. 215.322, to enter into agreements and accept credit and charge card payments as compensation for goods, services, tuition, and fees, in accordance with rules adopted established by the Board of Regents. The rules must allow the universities to accept credit and charge card payment for matriculation or tuition, non-resident tuition, and fees. The universities may not collect a service fee or surcharge for credit and charge card payments.~~

Section 17. Subsection (1) of section 287.012, Florida Statutes, 1996 Supplement, is amended to read:

287.012 Definitions.—The following definitions shall apply in this part:

(1) "Agency" means any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. *The term "agency" does not include the Board of Regents or the State University System; however, this exception does not exempt the Board of Regents or the State University System from the provisions of s. 287.055 regarding consultant selection or s. 120.53(5) regarding the contract bidding process.*

Section 18. Section 287.017, Florida Statutes, 1996 Supplement, is amended to read:

287.017 Purchasing categories, threshold amounts; procedures for automatic adjustment by division.—

(1) The following purchasing categories are hereby created:

- (a) CATEGORY ONE: \$5,000.
- (b) CATEGORY TWO: \$15,000.
- (c) CATEGORY THREE: \$20,000.
- (d) CATEGORY FOUR: \$60,000.
- (e) CATEGORY FIVE: \$120,000.

(2) The division shall adopt rules to annually adjust the amounts provided in subsection (1) based upon the rate of change of a nationally recognized price index. Such rules ~~shall~~ include, but *need* not be limited to, ~~the following~~:

(a) ~~Designating~~ Designation of the nationally recognized price index or component thereof used to calculate the proper adjustment authorized in this section.

(b) Prescribing the procedure for rounding results.

(c) Establishing the effective date of each annual adjustment based upon the previous calendar year data.

~~(3) Notwithstanding s. 240.225, the State University System shall be subject to the rules adopted pursuant to this section.~~

Section 19. Subsection (1) of section 240.207, Florida Statutes, is amended to read:

240.207 Board of Regents; appointment of members; qualifications and terms of office.—

(1) The Board of Regents shall consist of the Commissioner of Education, the Executive Director of the State Board of Community Colleges, the Executive Director of the Postsecondary Education Planning Commission, and 12 citizens of this state who shall be selected from the state at large, representative of the geographical areas of the state; who shall have been residents and citizens thereof for a period of at least 10 years prior to their appointment (one of whom shall be a member registered as a full-time student in the State University System and who shall have been a resident of this state for at least 5 years prior to appointment in lieu of the 10 years required of other members); and who shall be appointed by the Governor, approved by three members of the Cabinet, and confirmed by the Senate. However, no appointee shall take office until after his or her appointment has been approved by three members of the Cabinet. The State Board of Education shall develop rules and procedures for review and approval of the appointees. Except for the Commissioner of Education and except for the full-time student member, who shall serve for 1 year, the terms of office for the members of the Board of Regents shall be 6 years and until their successors are appointed and qualified, except in case of an appointment to fill a vacancy, in which case the appointment shall be for the unexpired term, and except as in this section otherwise provided. No member shall be selected from any county to serve with any other member from the same county, except that not more than two members may be selected from a county which has a population in excess of 900,000, and with the exceptions of the student member, who shall be selected at large, and the Commissioner of Education. The Governor shall fill all vacancies, subject to the above approval and confirmation, that may at any time occur on the board.

Section 20. Subsection (1) of section 240.307, Florida Statutes, is amended to read:

240.307 State Board of Community Colleges; appointment of members; qualifications.—

(1) The State Board of Community Colleges shall be comprised of the Commissioner of Education, the Chancellor of the State University System, the Executive Director of the Postsecondary Education Planning Commission, one student, and 11 lay citizens appointed by the Governor, approved by four members of the State Board of Education, and confirmed by the Senate in regular session. The Commissioner of Education may nominate two or more persons for each position, prior to appointment by the Governor. The State Board of Education shall adopt rules and procedures for its review and approval of nominees. Members shall have been residents and citizens of this state for at least 10 years prior to appointment.

(a) All members shall be deemed to be members-at-large charged with the responsibility of serving the entire state.

(b) Terms of membership of the lay citizens shall be for 5 years.

(c) Lay citizen members of the State Board of Community Colleges shall be appointed in a manner providing equitable geographical representation.

(d) The student member shall be registered as a student in a public community college and shall have been a resident of this state for at least 5 years. His or her term of office shall be 1 year.

(2) Each member shall serve until expiration of his or her term and until his or her successor is appointed and qualified, except in the case of an appointment to fill a vacancy, in which case the appointment shall be for the unexpired term, and except as otherwise provided by this section. The Governor shall fill all vacancies that may at any time occur therein, subject to the above approval and confirmation.

Section 21. Subsection (1) of section 240.235, Florida Statutes, is amended to read:

240.235 Fees.—

(1) Each university is authorized to establish separate activity and service, health, and athletic fees, which are defined as state revenues and which must be established annually in the General Appropriations Act. When duly established, the fees shall be collected as component parts of the registration and tuition fees and shall be retained by the university and paid into the separate activity and service, health, and athletic fund accounts within the Educational and General Student and Other Fees Trust Fund funds.

(a)1. Within the ranges established in the General Appropriations Act, each university president shall establish a student activity and service fee on the main campus of the university. The university president may also establish a student activity and service fee on any branch campus or center. Any subsequent increase in the activity and service fee must be recommended by an activity and service fee committee, at least one-half of whom are students appointed by the student body president. The remainder of the committee shall be appointed by the university president. A chairperson, appointed jointly by the university president and the student body president, shall vote only in the case of a tie. The recommendations of the committee shall take effect only after approval by the university president, after consultation with the student body president, with final approval by the Board of Regents. An increase in the activity and service fee may occur only once each fiscal year and must be implemented beginning with the fall term. The Board of Regents is responsible for promulgating the rules and timetables necessary to implement this fee.

2. Within the ranges established in the General Appropriations Act, the student activity and service fees shall be expended for lawful purposes to benefit the student body in general. This shall include, but shall not be limited to, student publications and grants to duly recognized student organizations, the membership of which is open to all students at the university without regard to race, sex, or religion. The fund may not benefit activities for which an admission fee is charged to students, except for student-government-association-sponsored concerts. The president of each university must survey the student body at least once every 3 years to determine priorities for the use of activity and service fee revenue. The survey results must be made public and must be transmitted to the student government association for consideration in preparing the fund budget. The student government association must annually prepare and submit a budget for the allocation of fee revenue to the university president. The budget must be approved by the allocation and expenditure of the fund shall be determined by the student government association of the university, except that the president of the university, who may veto any line item or portion thereof within the budget when submitted by the student government association legislative body. The university president shall have 30 1/2 school days from the date of presentation of the budget to act on the allocation and expenditure recommendations, which shall be deemed approved if no action is taken within the 30 1/2 school days. If any line item or portion thereof within the budget is vetoed, the student government association legislative body shall within 30 1/2 school days make new budget recommendations for expenditure of the vetoed portion of the fund. If the university president vetoes any line item or portion thereof within the new budget revisions, the university president may reallocate by line item that vetoed portion to bond obligations guaranteed by activity and service fees. Funds may not be used for the construction, remodeling, or expansion of facilities, unless

approved in the General Appropriations Act. Unexpended funds and undisbursed funds remaining at the end of a fiscal year shall be carried over and remain in the student activity and service fund and be available for allocation and expenditure during the next fiscal year.

(b)1. Within the range established in the General Appropriations Act, each university president shall establish a student health fee on the main campus of the university. The university president may also establish a student health fee on any branch campus or center. Any subsequent increase in the health fee must be recommended by a health committee, at least one-half of whom are students appointed by the student body president. The remainder of the committee shall be appointed by the university president. A chairperson, appointed jointly by the university president and the student body president, shall vote only in the case of a tie. The recommendations of the committee shall take effect only after approval by the university president, after consultation with the student body president, with final approval by the Board of Regents. An increase in the health fee may occur only once each fiscal year and must be implemented beginning with the fall term. The Board of Regents is responsible for promulgating the rules and timetables necessary to implement this fee.

2. Within the ranges established in the General Appropriations Act, the student health fee shall be expended for lawful purposes to benefit the student body in general. The benefit includes primary care for enrolled students, health and fitness services, and other health-related services. The president of each university must survey the student body at least once every 3 years to determine priorities for the use of health fee revenue. The survey results must be made public and must be transmitted to the student government association for consideration in preparing the fund budget. The student government association must annually prepare and submit a budget for the allocation of fee revenue to the university president. The budget must be approved by the president, who may veto any line item or portion thereof. Funds may not be used for the construction, remodeling, or expansion of facilities unless approved in the General Appropriations Act. Unexpended funds and undisbursed funds remaining at the end of the fiscal year must be carried forward and remain in the health fee fund and be available for allocation and expenditure during the next fiscal year.

(c)1. Each university president shall establish a separate athletic fee on the main campus of the university. The university president may also establish a separate athletic fee on any branch campus or center. The initial aggregate athletic fee at each university shall be equal to, but may be no greater than, the 1982-1983 per credit hour activity and service fee contributed to intercollegiate athletics, including women's athletics, as provided by s. 240.533. Concurrently with the establishment of the athletic fee, the activity and service fee shall experience a one-time reduction equal to the initial aggregate athletic fee. Any subsequent increase in the athletic fee must be recommended by an athletic fee committee, at least one-half of whom are students appointed by the student body president. The remainder of the committee shall be appointed by the university president. A chairperson, appointed jointly by the university president and the student body president, shall vote only in the case of a tie. The recommendations of the committee shall take effect only after approval by the university president, after consultation with the student body president, with final approval by the Board of Regents. An increase in the athletic fee may occur only once each fiscal year and must be implemented beginning with the fall term. The Board of Regents is responsible for promulgating the rules and timetables necessary to implement this fee.

2. Within the ranges established in the General Appropriations Act, the student athletic fee shall be expended for lawful purposes to benefit the student body in general. The benefit includes operating support for athletic programs, scholarships, and academic support for student athletes. The president of each university must survey the student body at least once every 3 years to determine priorities for the use of athletic fee revenue. The survey results must be made public and must be transmitted to the student government association for consideration in preparing the fund budget. The student government association must annually prepare and submit a budget for the allocation of fee revenue to the university president. The budget must be approved by the president, who may veto any line item or portion thereof. Funds may not be used for the construction, remodeling, or expansion of facilities unless approved in the General Appropriations Act. Unexpended funds and undisbursed funds remaining at the end of the fiscal year must be carried forward and remain in the athletic fee fund and be available for allocation and expenditure during the next fiscal year.

Section 22. Present paragraphs (c), (d), (e), (f), (g), (h), (i), and (j) of subsection (10) of section 240.1201, Florida Statutes, 1996 Supplement, are redesignated as paragraphs (d), (e), (f), (g), (h), (i), (j), and (k), respectively, and a new paragraph (c) is added to that 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:

(c) *Active duty members of the Canadian military residing or stationed in this state and serving under the North American Air Defense (NORAD) agreement, and their spouses and dependent children, attending a public community college or university within 50 miles of the military establishment where they are stationed.*

Section 23. Subsection (4) of section 240.147, Florida Statutes, is amended to read:

240.147 Powers and duties of the commission.—The commission shall:

(4) Recommend to the State Board of Education contracts with independent institutions to conduct programs consistent with the state master plan for postsecondary education. In making recommendations, the commission shall consider the annual report submitted by the Board of Regents pursuant to s. 240.209(3)(s)(†). Each program shall be reviewed, with the cooperation of the institution, every 5 years.

Section 24. Section 240.2475, Florida Statutes, is amended to read:

240.2475 State University System *employment* equity accountability program.—

(1) ~~No later than August 1, 1992, Each state university shall maintain an annual equity develop a plan for appropriate representation increasing the number of women and minorities in senior-level administrative positions, within tenure-track faculty, and within faculty granted tenure. Such plan shall be maintained until appropriate representation has been achieved. As used in this subsection, the term:~~

(a) *“Appropriate representation” means category employment representation that at least meets comparable national standards for at least two consecutive reporting periods.*

(b) *“Category” means major executive, administrative, and professional grouping, including senior-level administrative and professional positions, senior academic administrative-level positions, and tenure-track faculty for increasing the number of women and minorities in ranked faculty positions, and for increasing the number of women and minorities granted tenure. The plan must include specific measurable goals and objectives, specific strategies for accomplishing these goals and objectives, a time period for accomplishing these goals and objectives, and comparative national standards. The plan shall be submitted to the Legislature on or before September 1, 1992.*

(2)(a) ~~By April 1 October 31 of each year, each state university president shall submit an annual equity accountability report to the Chancellor and the Board of Regents. The equity report shall consist of a status update, an analysis, and a status report of selected personnel transactions. As used in this paragraph, the term, “selected personnel transactions” means new hires in, promotions into, tenure actions in, and terminations from a category. Each university shall provide the job classification title, gender, race, and appointment status of selected personnel transactions. The status update shall assess underrepresentation in each category. The status report shall consist of current category employment representation, comparable national standards, an evaluation of representation, and annual goals to address underrepresentation, which shows the number of administrative positions in the faculty and in the administrative and professional pay plans which were filled in the previous fiscal year. Administrative positions include faculty positions that, in whole or in part, are defined as academic administration under standard practice CM 87-17.1 and positions in the administrative and professional pay plans that are defined as administrative positions under the Board of Regents’ classification of occupational groupings. The report must include the following information pertaining to the employees hired in those positions:~~

- 1.—Job classification title;
- 2.—Gender;
- 3.—Ethnicity;
- 4.—Appointment status pursuant to chapter 6C-5.105, Florida Administrative Code;
- 5.—The salary at which the individual was hired;
- 6.—Comparative information including, but not limited to, composite information regarding the total number of positions within the particular job title classification for the university by race, gender, and the average salary or salary range, where applicable, compared to the number of new hires;
- 7.—Guidelines for ensuring a gender-balanced and ethnically-balanced selection committee for each vacancy;
- 8.—Steps taken to develop a diverse pool of candidates for each vacancy; and
- 9.—An assessment of the university’s accomplishment of annual goals and of long range goals for hiring and promoting women and minorities in senior-level administrative positions.

(b) *After 1 year of implementation of a plan, and annually thereafter, for those categories in which prior year goals were not achieved, each university shall provide, in its annual equity report, a narrative explanation and a plan for achievement of equity. The plan shall include guidelines for ensuring balanced membership on selection committees and specific steps for developing a diverse pool of candidates for each vacancy in the category. The plan shall also include a systematic process by which those responsible for hiring are provided information and are evaluated regarding their responsibilities pursuant to this section. Each university’s equity accountability report must also include the following information pertaining to candidates formally applying for tenure:*

- 1.—Rank;
- 2.—Gender;
- 3.—Ethnicity;
- 4.—The salary at which the individual was hired; and
- 5.—Comparative information including, but not limited to, composite information regarding the total number of positions within the particular classification for the university by race, gender, and the average salary or salary range, where applicable, compared to the number of new hires.

(c) *The equity report shall include an analysis and assessment of the university’s accomplishment of annual goals, as specified in the university’s affirmative action plan, for increasing the representation of women and minorities in tenure-earning and senior-level administrative positions. The report must also include:*

- 1.—The requirements for achieving tenure;
- 2.—The gender and ethnic composition of the committees that review tenure recommendations at the department, college, and university levels;
- 3.—Guidelines for ensuring the equitable distribution of assignments that would enhance tenure opportunities for women and minority faculty; and
- 4.—Guidelines for obtaining feedback on the annual progress towards achievement of tenure by women and minorities.

(d) *The equity report shall also include the current rank, race, and gender of faculty eligible for tenure in a category. In addition, each university shall report representation of the pool of tenure-eligible faculty at each stage of the transaction process, and provide certification that each eligible faculty member was appraised annually of progress toward tenure. Each university shall also report on the dissemination of standards for achieving tenure; racial and gender composition of committees reviewing recommendations at each transaction level; and dissemination of guidelines for equitable distribution of assignments.*

(3)(a) A factor in the evaluation of university presidents, vice presidents, deans, and chairpersons shall be their annual progress in achieving the annual and long-range hiring and promotional goals and objectives, as specified in the university’s equity plan and affirmative action plan. Annual budget allocations for positions and funding shall be based on this evaluation. A summary of such evaluations Such evaluation shall be submitted to the Chancellor and the Board of Regents as part of the university’s annual equity report.

(b) ~~Beginning January 1994~~, The Chancellor and the Board of Regents shall annually evaluate the performance of the university presidents in achieving the annual ~~equity and long-term~~ goals and objectives. *A summary of the results of such evaluations shall be included as part of the annual equity progress report submitted by the Board of Regents to the Legislature and the State Board of Education.*

(4) The Board of Regents shall submit an annual equity progress report to the *President of the Senate, the Speaker of the House of Representatives, Legislature* and the State Board of Education on or before ~~August~~ ~~December~~ 1 of each year.

(5) ~~Each university shall develop a budgetary incentive plan to support and ensure attainment of the goals developed pursuant to this section. The plan shall specify, at a minimum, how resources shall be allocated to support the achievement of goals and the implementation of strategies in a timely manner. After prior review and approval by the university president and the Board of Regents, the plan shall be submitted as part of the annual equity report submitted by each university to the Board of Regents. Effective July 1, 1993, positions that become vacant in the faculty or the administrative and professional pay plans at a university shall be transferred into a pool at that university to be allocated by the administration to departments to reward department managers for attaining equity goals. Each university president shall develop rules regarding the filling of vacant positions and the transferring of positions into the pool. Such rules must provide for a total cap on the vacant position pool at 10 percent of the number of vacant positions for the university as of the date of the preparation of the initial operating budget for each year. The rule must also provide that the number of positions to be transferred into the vacant position pool, at the departmental level, may not exceed 10 percent of the total number of authorized positions for the department as of the date of the preparation of the initial operating budget for each year. Subject to available funding, the Legislature shall provide an annual appropriation to be allocated to the department managers in recognition of the attainment of equity goals and objectives.~~

(6) *Relevant components of each university's affirmative action plan may be used to satisfy the requirements of this section.*

(7) *Subject to available funding, the Legislature shall provide an annual appropriation to the Board of Regents to be allocated to the universities to further enhance equity initiatives and related priorities that support the mission of departments, divisions, or colleges in recognition of the attainment of equity goals and objectives.*

Section 25. Section 240.3355, Florida Statutes, is amended to read:
240.3355 Community College System *employment equity* accountability program.—

(1) ~~No later than May 1, 1993~~, Each community college shall include in its annual equity update ~~plan must include~~ a plan for increasing the representation number of women and minorities in senior-level administrative positions ~~and, for increasing the number of women and minorities in full-time ranked faculty positions, and for increasing the representation number of women and minorities who have attained continuing-contract status. Positions shall be defined in the personnel data element directory of the Division of Community Colleges.~~ The plan must include specific measurable goals and objectives, specific strategies and timelines for accomplishing these goals and objectives, and *comparable national standards as provided by the Division of Community Colleges a time period for accomplishing these goals and objectives.* The goals and objectives shall be based on meeting or exceeding comparable national standards and shall be reviewed and recommended by the State Board of Community Colleges as appropriate. *Such plans shall be maintained until appropriate representation has been achieved and maintained for at least 3 consecutive reporting years.*

(2)(a) On or before May 1 of each year, each community college president shall submit ~~an the annual employment accountability plan equity update~~ to the Executive Director of the State Board of Community Colleges. The *accountability plan equity update* must show *faculty and administrator employment data according to requirements specified on the federal Equal Employment Opportunity (EEO-6) report the number of deans, associates, assistant deans, vice presidents, associate and assistant presidents, provosts, legal counsel, and similar administrative positions which were filled in the previous 12 month period. Administrative positions include faculty positions that, in whole or in part, are*

~~defined as academic administration by rule and positions that are defined as administrative positions under the Community College System's classification of occupational groupings.~~

(b) The ~~plan report~~ must show the following information for those positions including, but not limited to:

1. Job classification title.;
2. Gender.;
3. Ethnicity.;
4. Appointment status.;
5. Salary information. *At each community college, salary information shall also include including the salary ranges in which new hires were employed compared to the salary ranges for employees with comparable experience and qualifications. at which the individual was hired compared to the salary range for the respective position and to other employees in the same job title classification;*
6. Other comparative information including, but not limited to, composite information regarding the total number of positions within the particular job title classification for the community college by race, gender, and salary range compared to the number of new hires.;
7. *A statement certifying diversity and balance in the gender and ethnic composition of the selection committee for each vacancy, including a brief description of guidelines used for ensuring balanced and diverse membership on selection and review committees.;*

8. ~~Steps taken to develop a diverse pool of candidates for each vacancy; and~~

~~(c)9. The annual employment accountability plan shall also include an analysis and an assessment of the community college's attainment accomplishment of annual goals and of long-range goals for increasing the number of women and minorities in faculty and senior-level administrative positions, and a corrective action plan for addressing underrepresentation.~~

~~(d)(e) Each community college's employment equity~~ accountability plan ~~report~~ must also include:

1. The requirements for receiving a continuing contract.;
2. ~~A brief description of the process used to grant The gender and ethnic composition of the committees that review continuing-contract status. recommendations;~~
3. ~~A brief description of the process used to annually apprise each eligible faculty member of progress toward attainment of continuing-contract status. The enhancement of continuing-contract opportunities for women and minority faculty; and~~
4. ~~Written documentation of feedback on the annual progress towards achievement of continuing-contract status by women and minorities.~~

(3) Community college presidents and the heads of each major administrative division shall be evaluated annually on the progress made toward meeting the goals and objectives of the *community college's employment accountability equity update* plan.

(a) The community college presidents, *or the president's designee*, shall annually evaluate each department chairperson, dean, *provost*, and vice president in achieving the annual and long-term goals and objectives. *A summary of the results of such evaluations shall be reported annually by the president of the community college to the board of trustees. Annual budget allocations by the board of trustees for positions and funding must take into consideration these evaluations this evaluation.*

(b) ~~Beginning January 1994~~, Community college district boards of trustees shall annually evaluate the performance of the community college presidents in achieving the annual and long-term goals and objectives. *A summary of the results of such evaluations shall be reported to the Executive Director of the State Board of Community Colleges as part of the community college's annual employment accountability plan, and to the Legislature and State Board of Education as part of the annual*

equity progress report submitted by the State Board of Community Colleges.

(4)(e) The State Board of Community Colleges shall submit an annual equity progress report to the President of the Senate, the Speaker of the House of Representatives, the Legislature and the State Board of Education on or before January 1 of each year.

(5) Each community college shall develop a budgetary incentive plan to support and ensure attainment of the goals developed pursuant to this section. The plan shall specify, at a minimum, how resources shall be allocated to support the achievement of goals and the implementation of strategies in a timely manner. After prior review and approval by the community college president and the State Board of Community Colleges, the plan shall be submitted as part of the annual employment accountability plan submitted by each community college to the State Board of Community Colleges.

(6)(4) Subject to available funding, the Legislature shall provide an annual appropriation to the State Board of Community Colleges to be allocated to community college presidents, faculty, and administrative personnel to further enhance equity initiatives and related priorities that support the mission of colleges and departments the department managers in recognition of the attainment of the equity goals and objectives.

Section 26. Section 240.225, Florida Statutes; section 240.247, Florida Statutes; subsection (4) of section 240.4988, Florida Statutes; and sections 15 and 16 of chapter 94-232, Laws of Florida are repealed.

Section 27. This act shall take effect July 1, 1997.

And the title is amended as follows:

Delete everything before the enacting clause and insert: An act relating to the State University System; amending s. 110.131, F.S.; deleting a reporting requirement for the Board of Regents with respect to other-personal-services employees; amending s. 235.055, F.S.; deleting the authority of the Board of Regents to construct facilities on leased property and enter into certain leases; amending s. 235.195, F.S.; deleting a requirement that a certain portion of the cost of certain construction projects be included in a budget request; deleting a limitation upon the number of such construction projects allowed to an educational agency; amending s. 240.205, F.S.; revising provisions relating to Board of Regents' contracts and acquisition of property and services; amending s. 240.209, F.S., relating to duties of the Board of Regents; revising requirements for the board with respect to procurement and construction contracts; authorizing the Board of Regents to acquire and dispose of real property; providing procedures for appraisals and property acquisition; providing for personnel contracts; amending s. 240.2097, F.S.; deleting a requirement that the Board of Regents report to the Legislature on limited-access programs; revising requirements for student handbooks; amending s. 240.2111, F.S., relating to an employee recognition program; deleting requirement that the program be adopted by rule; amending s. 240.214, F.S.; revising accountability goals and reporting procedures for the State University System; amending s. 240.227, F.S.; providing responsibilities of university presidents; providing for the appointment of university presidents; revising duties of university presidents relating to acquisition of, and contracts for and management of, property and financial resources and approval and execution of general construction contracts; amending s. 240.241, F.S., relating to divisions of sponsored research at state universities; providing an exemption from certain contract requirements; amending s. 240.2605, F.S., relating to the Trust Fund for Major Gifts; deleting Board of Regents' rulemaking power; authorizing the Board of Regents Foundation to participate in the major gifts program; amending s. 240.274, F.S., relating to university libraries; deleting Board of Regents' rulemaking power; amending s. 240.2803, F.S.; revising the funds included within the definition of auxiliary enterprises; amending s. 240.281, F.S.; revising the authority for an institution to deposit certain funds outside the State Treasury; amending s. 243.151, F.S.; providing a procedure through which a university may construct facilities on leased property; amending s. 240.289, F.S.; authorizing the universities to accept credit and charge card payments; prohibiting the imposition of a service fee or surcharge for credit card payments; amending s. 287.012, F.S., relating to purchasing and contractual services; providing responsibilities; amending s. 287.017, F.S.; revising the threshold amounts of purchasing categories; deleting applicability of certain rules to the State University System; amending ss. 240.207, 240.307, F.S.; adding members to the Board of Regents and the State Board of Community Colleges; amending s. 240.235, F.S.;

defining fees; providing for fee ranges; providing budget procedures; restricting the use of fee revenue for certain purposes; amending s. 240.1201, F.S.; providing that certain members of the Canadian military are classified as residents for tuition purposes; amending s. 240.147, F.S.; correcting a cross-reference; amending s. 240.2475, F.S., relating to the State University System equity accountability program; requiring each state university to maintain an equity plan to increase the representation of women and minorities in faculty and administrative positions; providing for the submission of reports; requiring the development of a plan for achievement of equity; providing for administrative evaluations; requiring the development of a budgetary incentive plan; providing for an appropriation; amending s. 240.3355, F.S., relating to the State Community College System equity accountability program; requiring each community college to maintain a plan to increase the representation of women and minorities in faculty and administrative positions; providing contents of an employment accountability plan; requiring the development of a plan for corrective action; providing for administrative evaluations; providing for submission of reports; requiring the development of a budgetary incentive plan; repealing ss. 240.225, 240.247, 240.4988(4), F.S., and ss. 15 and 16 of ch. 94-232, Laws of Florida, relating to delegation of authority by the Department of Management Services to the State University System, eradication of salary discrimination, Board of Regents' rules for the Theodore R. and Vivian M. Johnson Scholarship Program, the title of ch. 239, F.S., and a directive to the Division of Statutory Revision; providing an effective date.

On motion by Senator Dyer, by two-thirds vote **HB 755** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Madam President	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Burt	Dudley	Jones	Rossin
Campbell	Dyer	Kirkpatrick	Silver
Casas	Forman	Klein	Thomas
Childers	Grant	Kurth	Turner
Clary	Gutman	Latvala	Williams
Cowin	Harris	Lee	
Crist	Holzendorf	Meadows	

Nays—None

Vote after roll call:

Yea—Bankhead

Consideration of **CS for SB 508**, **CS for CS for SB 2142**, **CS for SB 544** and **CS for SB 1904**, **HB 2013**, and **HB 1925** was deferred.

SPECIAL ORDER CALENDAR

On motion by Senator Horne, by two-thirds vote **HB 2121** was withdrawn from the Committees on Education; and Ways and Means.

On motions by Senator Horne, the rules were waived and by two-thirds vote—

HB 2121—A bill to be entitled An act relating to educational facilities and funding; providing for a review over a 4-year period of the Florida Statutes that govern agency operations; requiring the Commissioner of Education to review rules relating to school facilities and recommend revision or repeal; authorizing the commissioner to recommend revision or repeal of statutes; establishing the School Infrastructure Thrift Program within the Department of Education; requiring the Department of Education to seek elimination or revision of certain laws, rules, and regulations; providing program purposes; providing for annual funding; providing that appropriations shall not revert; providing intent for continued program funding; authorizing school district participation in the program and providing requirements; requiring review of data and proposals and recommendation for awards; providing for awards and restricting the use thereof; providing penalties for noncompliance; creating s. 235.216, F.S.; providing for maximum square foot cost of educational facilities; providing frugal construction incentives; amending s. 236.25, F.S., relating to district school tax; limiting the use of nonvoted discretionary capital outlay millage proceeds; providing a penalty for

violations of the expenditure restrictions; authorizing a waiver of the expenditure restrictions; amending s. 235.435, F.S., relating to funds for comprehensive educational plant needs; revising requirements and providing additional criteria for funding from the Special Facility Construction Account; amending s. 235.014, F.S.; revising functions of the Department of Education; amending s. 235.15, F.S.; requiring uniformity in surveys of educational facilities; providing additional survey requirements; requiring validation of use of standardized measures by the Department of Education; amending s. 236.083, F.S.; providing for a guaranteed allocation from student transportation funding for new schools meeting certain requirements; providing for calculation; authorizing transfer of such amount to the district capital improvement account for construction, financing, or lease-purchase of new schools; requiring the Department of Education to recommend certain incentives; authorizing the adoption of rules; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1548 and CS for SB 1434** and by two-thirds vote read the second time by title.

Senator Horne moved the following amendment which was adopted:

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

Section 1. (1) *The Commissioner of Education shall review rules of the State Board of Education and of the Department of Education annually by February 1 and recommend revisions or repeals to eliminate obsolete, excessively restrictive, and unnecessary requirements applicable to school districts in the construction, renovation, remodeling, leasing, or repair of facilities and related matters affecting the physical quality of classrooms for instructional purposes.*

(2) *The Commissioner of Education shall recommend to the Legislature annually by February 1 the revision or repeal of provisions of the Florida Statutes to eliminate obsolete, excessively restrictive, and unnecessary requirements applicable to school districts in the construction, renovation, remodeling, leasing, or repair of facilities and related matters affecting the physical quality of classrooms for instructional purposes.*

Section 2. School Infrastructure Thrift Program Act.—

(1) *This section may be cited as the "School Infrastructure Thrift Program Act of 1997."*

(2) *The School Infrastructure Thrift Program (SIT Program) is established within the Department of Education, and the State Board of Education may adopt rules as necessary to operate the program. To facilitate the program's purposes, the department shall aggressively seek the elimination or revision of obsolete, excessively restrictive, or unnecessary laws, rules, and regulations for the purpose of reducing the cost of constructing educational facilities and related costs without sacrificing safety or quality of construction. Such efforts must include, but are not limited to, the elimination of duplicate or overlapping inspections; the relaxation of requirements relating to landscaping, operable glazing, operable windows, radon testing, firesafety, and emergency shelter construction where lawful, safe, and cost-beneficial; and other cost savings identified as lawful, safe, and cost-beneficial. The program's purposes are to:*

(a) *Facilitate cost savings by school districts relating to educational facilities construction.*

(b) *Provide incentives for school districts to maximize dollars available for construction of educational facilities and related costs.*

(c) *Provide a funding mechanism for utilization solely related to the construction of new educational facilities.*

(3) *Funds shall be appropriated to the SIT Program on an annual basis as determined by the Legislature. Notwithstanding ss. 216.301 and 216.351, Florida Statutes, undisbursed balances of appropriations to the SIT Program shall not revert. It is the intent of the Legislature to continue funding the SIT Program with funds available through frugal government operation and agency savings.*

(4) *School districts may participate in the SIT Program by local option of the school board. Participating school districts may request funds in the program beginning July 1, 1997, for projects commenced after or for projects underway at the time this act becomes a law, if the projects comply with s. 235.216, Florida Statutes.*

(5)(a) *Annually by December 30, beginning in 1997, each participating school district shall report to the Commissioner of Education, with supporting data, its compliance with section 235.216, Florida Statutes, together with any proposal for spending SIT Program dollars on new projects within the district commencing the following fiscal year.*

(b) *The commissioner shall examine the data and proposals from each school district and, by February 1, shall report to the Legislature each participating district's compliance with section 235.216, Florida Statutes, for the prior fiscal year and make recommendations, ranked in order of priority, for SIT Program awards for the following fiscal year.*

(c) *If a school district receives SIT Program funds and fails to comply with this section and section 235.216, Florida Statutes, the district may not receive an award the following fiscal year and must return the dollars not spent or encumbered as required by this section and section 235.216, Florida Statutes, with interest thereon at the legal rate.*

(d) *The commissioner's criteria for SIT Program evaluation and recommendation for awards must be based on the school district meeting the requirements in this section and section 235.216, Florida Statutes, the soundness of the proposal, school district need, and the balance of dollars in the SIT Program.*

(6) *Awards from the SIT Program shall be made by the commissioner from funds appropriated by the Legislature and may only be used for construction of a new educational facility and related costs. SIT Program dollars that are not spent or encumbered as required by this section must be returned to the SIT Program as required by paragraph (5)(c).*

(7) *For each new project of a school district that meets the criteria of section 235.216, Florida Statutes, the commissioner may award up to 20 percent of the total project cost from SIT Program dollars.*

Section 3. Section 235.216, Florida Statutes, is created to read:

235.216 *Maximum square foot cost of educational facilities; frugal construction incentives.—*

(1) *It is the intent of the Legislature that district school boards that seek awards of SIT Program funds use due diligence and sound business practices in the design, construction, and use of educational facilities.*

(2) *Beginning with the 1997-1998 fiscal year, a school district may seek funding assistance from the SIT Program for new construction of educational facilities if:*

(a) *The maximum total cost per square foot for the elementary school, middle school, or high school does not exceed the most current 5-year statewide average square foot total cost for schools serving similar grade levels published by the Department of Education, adjusted by inflation and the most current Marshall and Swift Construction Cost Index of Florida counties. If federal funds are used, the maximum square foot total cost may be adjusted to accommodate federal requirements.*

(b) *Upon completion of construction, the total project cost, including change orders, does not exceed the adjusted statewide average cost per gross square foot for schools serving similar grade levels, adjusted by the construction cost index and the 5-year statewide average inflation rate; does not exceed the minimum square footage per student specified in the State Requirements for Educational Facilities, 1997; and does not exceed the adjusted statewide average cost per student station.*

Section 4. Paragraph (a) of subsection (10) and subsections (3) and (4) of section 235.014, Florida Statutes, are amended to read:

235.014 *Functions of the department.—The functions of the department shall include, but not be limited to, the following; it shall:*

(3) *Require boards, including the Board of Regents, to submit other educational plant inventories data and statistical data or information relevant to construction, and capital improvements, and related costs.*

(4) *Require each board, including the Board of Regents, all agencies of the state, and other appropriate agencies to submit complete and accurate financial data as to the amounts of funds from all sources that are available and spent for construction and capital improvements. The commissioner shall prescribe the format and the date for the submission of this data and any other educational facilities data. If any district does*

not submit the required educational facilities fiscal data by the prescribed date, the commissioner shall notify the district school board of this fact and, if appropriate action is not taken to immediately submit the required report, the district school board shall be directed to proceed pursuant to the provisions of s. 230.23(11)(b). If any community college or university does not submit the required educational facilities fiscal data by the prescribed date, the same policy prescribed above for school districts shall be implemented.

(10)(a) ~~When required by the State Constitution, Review and validate~~ surveys proposed ~~or amended~~ by the boards and recommend to the State Board of Education, for approval, surveys that meet the requirements of this chapter.

1. ~~The term "validate" as applied to surveys by school districts means to review inventory data as submitted to the department by district school boards; provide for review and inspection, where required, of student stations and aggregate square feet of inventory changed from satisfactory to unsatisfactory or changed from unsatisfactory to satisfactory; the comparison of new school inventory to allocation limits provided by this chapter; review of cost projections for conformity with state averages; comparison of total capital outlay full-time equivalent enrollment projections in the survey with the department's projections; review facilities lists to verify that area allocations do not exceed the limits provided by this chapter and related rules; review and confirm the application of uniform facility utilization factors, where provided by this chapter or related rules; utilize the documentation of programs offered per site, as submitted by the board, to analyze facility needs; confirm that need projections for vocational and adult educational programs comply with needs documented by the Division of Applied Technology and Adult Education; and confirm the assignment of full-time student stations to all space except for cafeterias, multipurpose dining areas, media centers, and administration.~~

2. ~~The term "validate" as applied to surveys by community colleges means to review and document the approval of each new site and official designation, where applicable; review the inventory database as submitted by the Division of Community Colleges, including nonvocational, vocational, and total capital outlay full-time equivalent enrollment projections per site and per college; provide for the review and inspection, where required, of student stations and aggregate square feet of space changed from satisfactory to unsatisfactory; utilize and review the documentation of programs offered per site submitted by the Division of Community Colleges as accurate for analysis of space requirements and needs; confirm that needs projected for vocational and adult educational programs comply with needs documented by the Division of Applied Technology and Adult Education; compare new facility inventory to allocations limits as provided in this chapter; review cost projections for conformity with state averages or limits designated by this chapter; compare student enrollment projections in the survey to the department's projections; review facilities lists to verify that area allocations and space factors for generating space needs do not exceed the limits as provided by this chapter and related rules; confirm the application of facility utilization factors as provided by this chapter and related rules; and review, as submitted, documentation of how survey recommendations will implement the detail of current campus master plans and integrate with local comprehensive plans and development regulations.~~

Section 5. Section 235.15, Florida Statutes, is amended to read:

235.15 Educational plant survey; PECO project funding.—

(1) At least every 5 years, each board, including the Board of Regents, shall arrange for an educational plant survey, to aid in formulating plans for housing the educational program and student population, faculty, administrators, staff, and auxiliary and ancillary services of the district or campus, including consideration of the local comprehensive plan. ~~Before educational plant survey of a school district or community college that delivers career or adult education programs, The Division of Applied Technology and Adult Education shall document establish~~ ~~documentation~~ of the need for additional career and adult education programs and the continuation of existing programs before facility construction or renovation related to career or adult education may be included in the education plant survey of a school district or community college that delivers career or adult education programs. Information used by the Division of Applied Technology and Adult Education to establish facility needs must include, but need not be limited to, labor market data, needs analysis, and information submitted by the school district or community college.

(a) Each survey shall be conducted by the board or an agency employed by the board. Surveys shall be reviewed and approved by the board, and a file copy shall be submitted to the commissioner. The survey report shall include at least an inventory of existing educational and ancillary plants; recommendations for existing educational and ancillary plants; recommendations for new educational or ancillary plants, including the general location of each in coordination with the land use plan; campus master plan update and detail for community colleges; the utilization of school plants based on an extended school day or year-round operation; and such other information as may be required by the rules of the State Board of Education. This report may be amended, if conditions warrant, at the request of the board or commissioner.

(b) ~~Each educational plant survey completed after June 30, 1997, must use uniform data sources and criteria specified in this paragraph. Each educational plant survey completed after June 30, 1995, and before July 1, 1997, must be revised, if necessary, to comply with this paragraph. Each revised educational plant survey and each new educational plant survey supersedes previous surveys.~~

1. ~~Each school district's survey must reflect the capacity of existing facilities as reported in the Florida Inventory of School Houses. Projections of facility space needs may not exceed the minimum space and occupant design criteria established by rule of the State Board of Education. Existing and projected capital outlay full-time-equivalent-student enrollment must be consistent with data prepared by the department. Relocatables shall be included in the school district inventory of facilities and must be rated at 100 percent of actual student capacity for purposes of the inventory. For future needs determination, relocatables shall not be counted at 75 percent of actual student capacity. However, an adjustment shall be made for deficiencies in core space because of the use of relocatables portables. For schools with permanent educational facilities, this adjustment shall be the product of 75 percent multiplied by a factor determined by the ratio of permanent classrooms to relocatable classrooms. Such product shall not exceed 100 percent.~~

2. ~~Each survey of a special facility, joint-use facility, or cooperative vocational education facility must be based on capital outlay full-time-equivalent-student enrollment data prepared by the department for school districts, by the Division of Community Colleges for community colleges, and by the Board of Regents for state universities. A survey of space needs of a joint-use facility shall be based upon the respective space needs of the school districts, community colleges, and universities, as appropriate. Projections of a school district's facility space needs may not exceed the minimum space and occupant design criteria established by rule of the State Board of Education.~~

3. ~~Each community college's survey must reflect the capacity of existing facilities as specified in the inventory maintained by the Division of Community Colleges. Projections of facility space needs must comply with standards for determining space needs as specified by rule of the State Board of Education. The 5-year projection of capital outlay student enrollment must be consistent with the annual report of capital outlay full-time-student enrollment prepared by the Division of Community Colleges.~~

4. ~~Each state university's survey must reflect the capacity of existing facilities as specified in the inventory maintained and validated by the Board of Regents. Projections of facility space needs must be consistent with standards for determining space needs approved by the Board of Regents. The projected capital outlay full-time-equivalent-student enrollment must be consistent with the 5-year planned enrollment cycle for the State University System approved by the Board of Regents.~~

5. ~~The educational plant survey of a school district, community college, or state university may include space needs that deviate from approved standards for determining space needs if the deviation is justified, to the satisfaction of the department or the Board of Regents, as appropriate, as necessary for the delivery of an approved educational program.~~

(c) ~~When required by the State Constitution, The department shall review and validate the surveys and any amendments thereto for compliance with the requirements of this chapter and shall recommend those in compliance for approval by the State Board of Education.~~

(2) Only the superintendent or the college president shall certify to the department a project's compliance with the requirements for expenditure of PECO funds prior to release of funds.

(a) Upon request for release of PECO funds for planning purposes, certification must be made to the department that the need and location of the facility are in compliance with the board-approved survey recommendations and that the project meets the definition of a PECO project and the limiting criteria for expenditures of PECO funding.

(b) Upon request for release of construction funds, certification must be made to the department that the need and location of the facility are in compliance with the board-approved survey recommendations, that the project meets the definition of a PECO project and the limiting criteria for expenditures of PECO funding, and that the construction documents meet the requirements of the State Uniform Building Code for Educational Facilities Construction or other applicable codes as authorized in this chapter.

Section 6. Paragraphs (g) and (h) are added to subsection (2) of section 235.26, Florida Statutes, to read:

235.26 State Uniform Building Code for Public Educational Facilities Construction.—The State Board of Education shall adopt a uniform statewide building code for the planning and construction of public educational and ancillary plants by district school boards and community college district boards of trustees. The code shall be entitled the State Uniform Building Code for Public Educational Facilities Construction. Included in this code shall be flood plain management criteria in compliance with the rules and regulations in 44 C.F.R., parts 59 and 60, and subsequent revisions thereto which are adopted by the Federal Emergency Management Agency. Wherever the words “Uniform Building Code” appear, they shall mean the “State Uniform Building Code for Public Educational Facilities Construction.” It shall not be the intent of the Uniform Building Code to inhibit the use of new materials or innovative techniques; nor shall it specify or prohibit materials by brand names. The code shall be flexible enough to cover all phases of construction which will afford reasonable protection for public safety, health, and general welfare. The department may secure the service of other state agencies or such other assistance as it may find desirable in the revision of the code.

(2) CONFORMITY TO UNIFORM BUILDING CODE STANDARDS REQUIRED FOR APPROVAL.—A district school board or community college district board of trustees shall not approve any plans for the construction, renovation, remodeling, or demolition of any educational or ancillary plants unless these plans conform to the requirements of the Uniform Building Code. Each district school board and community college district board of trustees may adopt policies for delegating to the superintendent or community college president authority for submitting documents to the department and for awarding contracts subsequent to and consistent with board approval of the scope, timeframes, funding source, and budget of a survey-recommended project. It shall also be the responsibility of the department to develop, as a part of the Uniform Building Code, standards relating to:

(g) *The maximum and minimum net square footage per student for new construction initiated by a district school board after June 30, 1997. The maximum net square footage per student may not exceed the minimum square footage per student specified in the State Requirements for Educational Facilities, 1997.*

(h) *Maximum allowable space for noninstructional elements of educational facilities in relation to design criteria for space size and occupancy not to exceed the following:*

1. *The net area of the building may be increased up to 6 percent for interior enclosed space necessary for electrical, heating, ventilation, and air conditioning equipment.*

2. *Space for general circulation, interior and exterior walls, roof overhangs, and open malls shall not exceed 22 percent of the net square footage of the total facility for schools housing students in prekindergarten through grade 5 or grade 6 and shall not exceed 30 percent for schools housing students in grade 6 through postsecondary, including ancillary and broadcasting stations.*

Section 7. Paragraph (a) of subsection (2), paragraph (a) of subsection (4), and paragraph (a) of subsection (5) of section 235.435, Florida Statutes, are amended, present subsection (6) is renumbered as subsection (7), and a new subsection (6) is added to that section, to read:

235.435 Funds for comprehensive educational plant needs.—Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(2)(a) The department shall establish, as a part of the Public Education Capital Outlay and Debt Service Trust Fund, a separate account, in an amount determined by the Legislature, to be known as the “Special Facility Construction Account.” The Special Facility Construction Account shall be used to provide necessary construction funds to school districts which have urgent construction needs but which lack sufficient resources at present, and cannot reasonably anticipate sufficient resources within the period of the next 3 years, for these purposes from currently authorized sources of capital outlay revenue. A school district requesting funding from the Special Facility Construction Account shall submit one specific construction project, not to exceed one complete educational plant, to the Special Facility Construction Committee. No district shall receive funding for more than one approved project in any 3-year 5-year period. The first year of the 3-year 5-year period shall be the first year a district receives an appropriation. *The department shall encourage a construction program that reduces the average size of schools in the district.* The request must meet the following criteria to be considered by the committee:

1. *The project must be deemed a critical need and must be recommended for funding by the Special Facility Construction Committee. Prior to developing plans for the proposed facility, the district school board must request a preapplication review by the Special Facility Construction Committee or a project review subcommittee convened by the committee to include two representatives of the department and two staff from school districts other than the district submitting the project. Within 60 days after receiving the preapplication review request, the committee or subcommittee must meet in the school district to review the project proposal and existing facilities. To determine whether the proposed project is a critical need, the committee or subcommittee shall consider, at a minimum, the capacity of all existing facilities within the district as determined by the Florida Inventory of School Houses; the district's pattern of student growth; the district's existing and projected capital outlay full-time-equivalent-student enrollment as determined by the department; the district's existing satisfactory student stations; the use of all existing district property and facilities; grade level configurations; and any other information that may affect the need for the proposed project.*

2.1. *The construction project must be recommended in the most recent survey or surveys by the district under the rules of the State Board of Education.*

3.2. *The construction project must appear on the district's approved project priority list under the rules of the State Board of Education.*

4.3. *The district must have selected and had approved a site for the construction project in compliance with s. 235.19 and the rules of the State Board of Education.*

5.4. *The district shall have a school board adopted facility list developed in accordance with ~~not to exceed~~ the minimum normal net square feet occupancy requirements under the rules of the State Board of Education and using all possible programmatic combinations for multiple use of space to obtain maximum daily use of all spaces within the facility under consideration.*

6. *Upon construction, the total project cost, including change orders, must not exceed the adjusted statewide average cost per gross square foot, adjusted by the construction cost index and the 5-year statewide average inflation rate; must not exceed the minimum square footage per student specified in the State Requirements for Educational Facilities, 1997; and must not exceed the adjusted statewide average cost per student station.*

7.5. *There shall be an agreement signed by the district school board stating that it will advertise for bids within 30 days of receipt of its encumbrance authorization from the department.*

8.6. *The district shall, at the time of the request and for a continuing period of 3 years, levy the maximum millage against their nonexempt assessed property value as allowed in s. 236.25(2). Effective July 1, 1991, any district with a new or active project, funded under the provisions of this subsection, shall be required to budget no more than the value of 1.5 mills per year to the project to satisfy the annual participation requirement in the Special Facility Construction Account.*

9.7. If a contract has not been signed 90 days after the advertising of bids, the funding for the specific project shall revert to the Special Facility New Construction Account to be reallocated to other projects on the list. However, an additional 90 days may be granted by the commissioner.

10.8. The department shall certify the inability of the district to fund the survey-recommended project over a continuous 3-year period using projected capital outlay revenue derived from s. 9(d), Art. XII of the State Constitution, as amended, paragraph (3)(a) of this section, and s. 236.25(2).

11.9. The district shall have on file with the department an adopted resolution acknowledging its 3-year commitment of all unencumbered and future revenue acquired from s. 9(d), Art. XII of the State Constitution, as amended, paragraph (3)(a) of this section, and s. 236.25(2).

12.10. Final phase III plans must be certified by the board as complete and in compliance with the building and life safety codes prior to August 1.

(4)(a) The boards of trustees of the community colleges and the Board of Regents of the State University System shall receive funds for projects based on a 3-year priority list, to be updated annually, which is submitted to the Legislature in the legislative budget request at least 45 days prior to the legislative session. The State Board of Community Colleges shall submit a 3-year priority list for the entire State Community College System. The Board of Regents shall submit a 3-year priority list for the entire State University System. The lists shall reflect decisions by the boards concerning program priorities that implement the statewide plan for program growth and quality improvement in education. No remodeling or renovation project shall be included on the 3-year priority list unless the project has been recommended pursuant to s. 235.15 or is for the purpose of correcting health and safety deficiencies. No new construction project shall be included on the first year of the 3-year priority list unless the educational specifications have been approved by the Chancellor for university projects or by the Division of Community Colleges for community college projects. The funds requested for a new construction project in the first year of the 3-year priority list shall be in conformance with the scope of the project as defined in the educational specifications. Any new construction project requested in the first year of the 3-year priority list which is not funded by the Legislature shall be carried forward to be listed first in developing the updated 3-year priority list for the subsequent year's capital outlay budget. Should the order of the priority of the projects change from year to year, a justification for such change shall be included with the updated priority list.

(5) District school boards shall identify each fund source and the use of each proportionate to the project cost, as identified in the bid document, to assure compliance with this section. The data shall be submitted to the department, which shall track this information as submitted by the boards. PECO funds shall not be expended as indicated in the following:

(a) District school boards shall provide landscaping by local funding sources or initiatives. *District school boards are exempt from local landscape ordinances but may comply with the local requirements if such compliance is less costly than compliance with the landscape requirements of the State Uniform Building Code for Public Educational Facilities.*

(6)(a) *Effective July 1, 1997, each district school board must meet all instructional space needs of the respective educational sector before spending funds from the Public Education Capital Outlay Trust Fund or the School District and Community College District Capital Outlay and Debt Service Trust Fund for any other new construction, renovation, or remodeling. Expenditures to meet such instructional space needs may include expenditures for site acquisition, new construction, renovation, remodeling, and the costs of such services of school district personnel directly related to renovation or remodeling.*

(b) *Each district school board must not use funds from the Public Education Capital Outlay Trust Fund or the School District and Community College District Capital Outlay and Debt Service Trust Fund for any new construction with a total contract cost, including change orders, that equals more than 110 percent of the adjusted statewide average total construction cost per gross square foot, adjusted by the appropriate construction cost index and the 5-year average statewide inflation rate. Oper-*

ating funds must be used to pay any part of the total construction cost, including costs resulting from change orders, which exceeds the expenditure limits of this subsection.

(c) *All new construction initiated by a district school board after June 30, 1997:*

1. *Must not exceed the minimum square footage per student defined by the State Requirements for Educational Facilities, 1997; and*

2. *Must not exceed the adjusted statewide average construction cost per student station for the previous calendar year.*

(d) *The department shall compute for each calendar year statewide average construction costs for facilities serving each instructional level, for relocatable educational facilities, for administrative facilities, and for other ancillary and auxiliary facilities. The department shall compute adjusted statewide average total construction costs for each instructional level. The adjusted statewide average total construction cost shall not include any new construction project that exceeded the statewide average contract cost for new construction by more than 10 percent. Total construction cost includes contract costs, legal and administrative costs, fees of architects and engineers, furniture and equipment, and site improvement costs. Total construction cost does not include the cost of purchasing or leasing the site for the construction.*

Section 8. Paragraph (e) of subsection (2) of section 236.25, Florida Statutes, is amended and subsection (5) is added to that section to read:

236.25 District school tax.—

(2) In addition to the maximum millage levy as provided in subsection (1), each school board may levy not more than 2 mills against the taxable value for school purposes to fund:

(e) Payments for educational facilities and sites due under a lease-purchase agreement entered into by a school board pursuant to s. 230.23(9)(b)5. or s. 235.056(2), not exceeding, in the aggregate, an amount equal to *three-fourths one-half* of the proceeds from the millage levied by a school board pursuant to this subsection.

Violations of these expenditure provisions shall result in an equal dollar reduction in the Florida Education Finance Program (FEFP) funds for the violating district in the fiscal year following the audit citation.

(5) *It is the intent of the Legislature that, by July 1, 2004, revenue generated by the millage levy authorized by subsection (2) should be used only for the costs of construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students and for the purchase of equipment and materials directly related to the delivery of student instruction in such facilities.*

(a) *In fiscal year 1997-1998, a district school board may spend for purposes other than the construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students and the purchase of equipment and materials directly related to instruction in such facilities no more than 85 percent of the amount that was spent for those purposes in fiscal year 1995-1996, which shall be the base year, from the proceeds of the millage levied under subsection (2).*

(b) *In fiscal year 1998-1999, a district school board may spend for purposes other than the construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students and the purchase of equipment and materials directly related to instruction in such facilities no more than 70 percent of the amount that was spent for those purposes in the base year.*

(c) *In fiscal year 1999-2000, a district school board may spend for purposes other than the construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students and the purchase of equipment and materials directly related to instruction in such facilities no more than 55 percent of the amount that was spent for those purposes in the base year.*

(d) *In fiscal year 2000-2001, a district school board may spend for purposes other than the construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students and the purchase of equipment and materials directly related to instruction in such facilities no more than 40 percent of the amount that was spent for those purposes in the base year.*

(e) In fiscal year 2001-2002, a district school board may spend for purposes other than the construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students and the purchase of equipment and materials directly related to instruction in such facilities no more than 25 percent of the amount spent for those purposes in the base year.

(f) In fiscal year 2002-2003, a district school board may spend for purposes other than the construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students and the purchase of equipment and materials directly related to instruction in such facilities no more than 10 percent of the amount spent for those purposes in the base year.

(g) Beginning July 1, 2004, revenue generated by the millage levy authorized by subsection (2) must be used only for the construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students and for the purchase of equipment and materials directly related to the delivery of student instruction in such facilities.

A district that violates these expenditure restrictions shall have an equal dollar reduction in funds appropriated to the district under s. 236.081 in the fiscal year following the audit citation. The expenditure restrictions do not apply to any school district that certifies to the Commissioner of Education that all of the district's instructional space needs for the next 5 years can be met from capital outlay sources that the district reasonably expects to receive during the next 5 years.

Section 9. The Department of Education shall develop and recommend incentives to benefit district school boards which reduce educational facility construction costs as required by this act. The recommendations and any statutory changes necessary to implement the recommendations must be submitted to the President of the Senate and the Speaker of the House of Representatives no later than January 1, 1998.

Section 10. During fiscal year 1997-1998, the Department of Education shall allocate funds from the Public Education Capital Outlay and Debt Service Trust Fund, in an amount determined by the General Appropriations Act, to enable the school districts of Bay, Palm Beach, and Dade counties to implement 1-year, public-private partnership programs for school construction. The funds must be used to pay the district school board's proportionate share of the cost of providing, constructing, or upgrading the onsite or offsite infrastructure that is necessitated by, and must be available concurrent with, the development and construction of a single public school.

(1) To receive the available funds, the district school board must submit a request to the commissioner prior to August 1 for an amount not greater than the board's proportionate share of the cost of providing infrastructure necessitated by the development or construction of one specific public school, not to exceed one complete educational plant. The district school board must document, to the satisfaction of the commissioner, that the site of the public school and the proposed educational facilities meet the requirements of this subsection.

(a) The construction of the educational facilities of the public school must be recommended in the most recent educational plant survey completed in compliance with section 235.15, Florida Statutes, as amended by this act, and must appear on the district's approved priority list for projects as provided by rules of the State Board of Education.

(b) The site for the public school must:

1. Be donated to the district school board by the landowner who is a private person or private entity.

2. Be consistent with the land-use element of the local comprehensive plan for growth management.

3. Comply with all applicable federal, state, or local environmental regulations upon transfer of ownership from the private landowner to the district school board.

4. Be approved by the district school board pursuant to section 235.19, Florida Statutes, and rules of the state board.

(c) The educational facilities of the public school:

1. Must comply with this chapter and related rules of the state board and must not exceed the limits on construction cost and facility size established by chapter 235, Florida Statutes.

2. Must be obtained by a lease-purchase agreement approved by the district school board as provided in sections 235.056(2) and 236.25(2), Florida Statutes.

(2) Funds allocated pursuant to this section must be spent only for the district school board's proportionate share of the cost of providing, constructing, or upgrading onsite or offsite infrastructure that necessitated by, and must be available concurrent with, the development and construction of a public school that meets the requirements of this section. If the board's proportionate share of such infrastructure costs is less than the amount allocated to the board, the board shall notify the commissioner and shall remit the remaining sum to the Comptroller for deposit in the Public Education Capital Outlay Trust Fund.

Section 11. (1) The Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Office of the Auditor General are directed to develop a system for reviewing the financial management practices of school districts. In this system, OPPAGA and the Auditor General shall jointly examine district operations to determine whether they meet "best financial management practices." The best financial management practices will be adopted by the state Commissioner of Education within 90 days after the effective date of this act, after consultation with the Legislature, OPPAGA, and the Auditor General. The best financial management practices, at a minimum, must address the following areas:

(a) Efficient use of resources, including assessments of facilities construction and maintenance practices, use of state and district construction funds, use of lottery proceeds, student transportation and food service operations, management structures, and personnel systems and benefits;

(b) Compliance with generally accepted accounting principles and state and federal laws relating to financial management;

(c) Performance accountability systems, including performance measurement reports to the public, internal auditing, financial auditing, and information made available to support decisionmaking;

(d) Cost control systems, including asset, risk, and financial management, purchasing, and information system controls.

(2) School districts may, by a unanimous vote of the membership of the school board, apply to OPPAGA for financial management practice reviews. OPPAGA shall prioritize districts for review based on their growth rates and demonstrated need for review. The Director of OPPAGA may, at his discretion, contract with private consultants to perform part or all of the review of any district. Districts applying for review shall contribute 50 percent of review costs, unless funding for the entire cost of the review is specifically provided by the Legislature or the district has had a performance review pursuant to sections 11.515 and 230.2302, Florida Statutes.

(3) District reviews conducted under this section shall be completed within 6 months after commencement. OPPAGA shall issue a report to the district regarding its financial management practices and cost savings recommendations within 60 days after completing the reviews. If the district is found not to conform to best financial management practices, the report shall contain a plan of action detailing how the district could meet the best practices within 2 years.

(4) District school boards that agree by a majority-plus-one vote to institute the action plan shall submit an annual report to OPPAGA, the Auditor General, and the Commissioner of Education on progress made towards implementing the plan and whether changes have occurred in other areas of operation which would affect compliance with the best practices. Such districts shall be reviewed annually by OPPAGA, in addition to the annual financial audit required under section 11.45, Florida Statutes, to determine whether they have attained compliance with the best financial management practices in the areas covered by the plan. Districts that are found to comply with the best financial management practices shall receive a "Seal of Best Financial Management" by the State Board of Education certifying that the district is adhering to the state's best financial management practices. This designation shall be effective for a 3-year period, after which the district school board may

reapply for the designation to be granted after another financial management practice review. During the designation period, the district school board shall annually notify OPPAGA, the Auditor General, and the State Board of Education of any changes in policies or operations or any other situations that would not conform to the state's best financial management practices. The State Board of Education may revoke the designation of a district at any time if it determines that a district is no longer complying with the state's best financial management practices.

Section 12. Subsections (2) and (5) of section 236.25, Florida Statutes, are repealed effective July 1, 2004, and shall be reviewed by the Legislature prior to that date.

Section 13. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to educational facilities and funding; requiring the Commissioner of Education to review rules relating to school facilities and recommend revision or repeal; requiring the commissioner to recommend revision or repeal of statutes; establishing the School Infrastructure Thrift Program within the Department of Education; requiring the Department of Education to seek elimination or revision of certain laws, rules, and regulations; providing program purposes; providing for annual funding; providing that appropriations shall not revert; providing intent for continued program funding; authorizing school district participation in the program and providing requirements; requiring review of data and proposals and recommendation for awards; providing for awards and restricting the use thereof; providing penalties for non-compliance; creating s. 235.216, F.S.; providing for maximum square foot cost of educational facilities; providing frugal construction incentives; amending s. 235.014, F.S.; revising functions of the Department of Education; amending s. 235.15, F.S.; requiring uniformity in surveys of educational facilities by district school boards, community college boards of trustees, and state universities; requiring validation by the Department of Education; amending s. 235.26, F.S.; specifying requirements of the State Uniform Building Code for Public Educational Facilities with regard to new school construction; amending s. 235.435, F.S.; providing criteria for funding from the Special Facility Construction Account; exempting district school boards from local landscape ordinances; restricting the use of funds from the Public Education Capital Outlay Trust Fund and the School District and Community College District Capital Outlay and Debt Service Trust Fund for certain new construction; specifying duties of the Department of Education; authorizing a 1-year public-private partnership for the construction of public schools; providing for the allocation of available funds from the Public Education Capital Outlay and Debt Service Trust Fund to the school districts of Bay County, Palm Beach County, and Dade County; providing for distribution and use of funds; specifying duties of the Commissioner of Education; requiring the remittance of certain excess allocations; amending s. 236.25, F.S., relating to district school tax; authorizing the use of additional funds for certain lease-purchase agreements; limiting the use of nonvoted discretionary capital outlay millage proceeds; providing a penalty for violations of the expenditure restrictions; providing an exception to the expenditure restrictions; requiring the Department of Education to recommend certain incentives; providing for review of financial management practices of school districts; providing duties of the Office of Program Policy Analysis and Government Accountability, the office of the Auditor General, the Commissioner of Education, and the State Board of Education; providing participation criteria; providing for recognition of best financial management practices by school districts; prospectively repealing s. 236.25(2) and (5), F.S., relating to school districts' tax for capital outlay; requiring prior legislative review; providing an effective date.

Pursuant to Rule 4.19, **HB 2121** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Grant, by two-thirds vote **HB 1545** was withdrawn from the Committees on Education; and Ways and Means.

On motion by Senator Grant, the rules were waived and—

HB 1545—A bill to be entitled An act relating to education; amending ss. 239.117, 240.235, and 240.35, F.S.; allowing children adopted from the Department of Children and Family Services to be exempt from

certain student fees; amending s. 240.334, F.S.; conforming provisions; amending s. 240.36, F.S.; renaming the Florida Academic Improvement Trust Fund for Community Colleges; providing the community college system with the opportunity to receive and match challenge grants; specifying the State Board of Community Colleges as an eligible community college entity; providing for matching funds by any community college entity; requiring transfer of state matching funds to foundations; requiring each community college entity to establish its own academic improvement trust fund for the deposit of funds; specifying the use of funds; deleting certain requirements restricting the use of money for specified scholarship purposes; creating s. 240.4041, F.S.; permitting part-time students with a disability to be eligible for state financial aid; amending s. 240.6045, F.S.; revising provisions relating to a limited access competitive grant program; amending s. 229.551, F.S.; including private postsecondary education institutions; providing an exception to the course leveling requirement; amending s. 240.107, F.S., and reenacting s. 239.213(3), F.S., relating to vocational-preparatory instruction, to incorporate said amendment in a reference; deleting an alternative to the College Level Academic Skills Test; deleting a testing requirement; amending s. 240.116, F.S., relating to dual enrollment; providing an exception to grade point average requirements under certain circumstances; amending s. 240.117, F.S.; revising provisions relating to common placement testing for dual enrollment students; amending s. 240.1163, F.S.; providing limitations for calculating dual enrollment grades; authorizing the approval of dual enrollment agreements for limited course offerings with statewide appeal; creating s. 240.65, F.S.; providing a short title; providing legislative intent; creating the Institute on Public Postsecondary Distance Learning; providing for a governing board of the institute; assigning the institute to the Florida Gulf Coast University for purposes of administration; specifying duties of the institute; providing review and approval by Florida Distance Learning Network; repealing s. 240.65, F.S., after a date certain; creating s. 240.66, F.S.; directing the State Board of Community Colleges to establish the Florida Community College Distance Learning Consortium; providing for consortium membership; providing duties of the consortium; providing review and approval by Florida Distance Learning Network; amending s. 120.542, F.S.; providing that public employees are not persons subject to regulation for the purposes of waiver and variance; amending s. 120.81, F.S.; providing for exceptions to notice requirements and filing requirements; providing for retroactive effect; amending s. 231.17, F.S.; providing specific authority to adopt rules related to the educational certification of speech pathologists; amending ss. 228.041, 231.1725, 232.246, 233.067 and 236.081, F.S.; renaming home economics courses as family and consumer sciences courses; amending s. 239.105, F.S.; revising definitions of the terms "adult secondary education," "basic literacy," and "functional literacy"; defining the terms "beginning literacy" and "family literacy"; amending s. 239.205, F.S.; deleting a rulemaking requirement regarding career education programs; amending s. 239.213, F.S.; revising provisions relating to standards of basic skills mastery; providing for the use of adult basic education to meet certain needs; amending s. 239.229, F.S.; requiring the identification of vocational standards related to work experience; requiring the development of additional program standards and benchmarks; amending s. 239.301, F.S., relating to adult general education; conforming language to revised definitions; amending s. 239.305, F.S., relating to adult literacy; conforming language to revised definitions; removing a State Board of Education rule requirement; removing specific annual reporting requirements; providing for status reports in lieu of annual reports; deleting a requirement for the submission of a plan to the Commissioner of Education; amending s. 240.313, F.S.; providing for an odd number of members on the Florida Community College at Jacksonville Board of Trustees; amending s. 240.319, F.S., relating to duties and powers of community college district boards of trustees; providing for specific authority; repealing ss. 240.3575(5), 240.3815(1), and 240.382(5), F.S., relating to annual reports of economic development centers, annual reports of community college campus crime statistics, and rules for the operation of child development training centers; amending s. 229.595, F.S.; requiring the inclusion of student postsecondary preparedness information in manuals and handbooks; amending s. 229.601, F.S.; providing for recommended high school coursework information; creating s. 232.2466, F.S.; providing requirements for a college-ready diploma program; requiring a task force to recommend incentives for pursuit of a college-ready diploma; amending s. 239.117, F.S.; requiring the payment of fees for the continuous enrollment of students in college-preparatory instruction; providing an exception; amending s. 239.301, F.S.; deleting conflicting language; requiring the payment of fees for the continuous enrollment of students in college-preparatory instruction; providing an exception;

amending s. 240.1161, F.S.; requiring implementation strategies for reducing the incidence of postsecondary remediation; requiring an assessment of activities and the presentation of outcomes; providing for the promotion of "tech prep" activities; amending s. 240.117, F.S.; requiring the administration of the common placement test or an equivalent test during the tenth grade; requiring the administration of an institutionally developed test in lieu of the common placement test as an exit exam from remedial instruction; clarifying language regarding the offering of college-preparatory instruction; requiring payment of fees for the continuous enrollment of students in college-preparatory instruction; providing an exception; creating s. 240.124, F.S.; providing for an increase in fees for undergraduate students who continually enroll in the same college credit courses; providing for exceptions; amending s. 240.321, F.S.; applying entrance requirements to all degree programs; permitting a demonstration of competency as an alternative degree program admission requirement; providing an exemption from the testing requirement under certain circumstances; requiring the establishment of institutional policies regarding alternatives to traditional college-preparatory instructional methods; amending s. 239.117, F.S., relating to postsecondary student fees; allowing payment for the cost of fee exemptions to be made through a contract with the local WAGES coalition; amending s. 239.249, F.S.; providing an appeal process for school districts and community colleges to allow exemption from participation in performance-based incentive funding; amending s. 239.301, F.S.; providing for services for WAGES clients negotiated through the jobs and education regional board by school districts and community colleges to be funded by the local WAGES coalition; amending s. 240.35, F.S., relating to student fees; allowing payment for the cost of fee exemptions to be made through a contract with the local WAGES Coalition; amending s. 414.065, F.S., relating to work requirements for participation in the WAGES Program; including paid apprenticeship activities, the work component of cooperative education activities, and work-study activities in work activities; permitting educational institutions to provide training and receive subsidies to offset the cost of the training; providing reasons for placement in community service; defining work experience; clarifying the role of remedial or basic skills training; revising requirements for payment to a provider of vocational education or training; requiring the development of programs to address the needs of "hard-to-place" recipients; expanding the definition of job skills training; providing additional literacy or basic skills requirements related to work activity requirements; requiring the establishment of a task force to investigate issues associated with job training and workforce development; providing effective dates.

—a companion measure, was substituted for **CS for SB 1404** and read the second time by title.

Senator Grant moved the following amendment:

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

Section 1. *The Legislature intends to authorize an alternative to the College Level Academic Skills Test only for students who demonstrate mastery of those skills through an equally reliable method. To investigate whether or not the alternatives currently authorized are demonstrations of such mastery, the Division of Community Colleges and each community college shall collaborate to conduct a study of the relationship between student grade point averages, scores on the Scholastic Assessment Test or the American College Test, and passing rates on the College Level Academic Skills Test prior to January 1996. The purpose of the study is to discover the student test scores and grade point averages in courses identified by the Postsecondary Education Planning Commission which correlate with earning a passing score on the College Level Academic Skills Test. Specifically, the study must identify the proportion of students who failed the College Level Academic Skills Test on the initial attempt to pass it and who achieved a grade point average of 2.5 or above in courses identified by the Postsecondary Education Planning Commission as necessary for a student to become eligible for an alternative to the College Level Academic Skills Test. The results of the study must be presented to the Legislature by January 1, 1998.*

Section 2. *The Department of Education shall conduct a study of the success of students who enroll in college preparatory instruction. For purposes of the study, success is defined as completing all required remediation within 4 years after enrolling in a community college associate-in-science degree program or associate-in-arts degree program, and continuing enrollment in the college-credit program. The purpose of the*

study is to identify test scores and other information, such as courses taken and grades earned in high school, which identify a student who is unlikely to succeed in college work, including college-preparatory work, without prior remediation. In addition, the study should be designed to identify instructional procedures used by colleges in which a significant number of students are successful in remediation even though they fit the profile of a student who is unlikely to succeed. The department shall use historical data provided by the automated student data base, individual high schools, the State Board of Community Colleges, and individual community colleges to develop this profile. The study shall recommend an incentive program that will encourage students and colleges to persevere in their efforts to remediate skills of students whose preparation for college is very inadequate, rather than continuing in an accountability program that discourages student perseverance. The results of the study must be presented to the Legislature by January 1, 1998.

Section 3. Subsection (1) of section 229.551, Florida Statutes, 1996 Supplement, 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:

(a) Coordination of department plans for meeting educational needs and for improving the quality of education provided by the state system of public education;

(b) Coordination of management information system development for all levels of education and for all divisions of the department, to include the development and utilization of cooperative education computing networks for the state system of public education;

(c) Development of database definitions and all other items necessary for full implementation of a comprehensive management information system as required by s. 229.555;

(d) Coordination of all planning functions for all levels and divisions within the department;

(e) Coordination of all cost accounting and cost reporting activities for all levels of education, including public schools, vocational programs, community colleges, and institutions in the State University System;

(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 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 certificate career education 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. A course that is offered as part of an associate-in-science degree program and as an upper-division course for a baccalaureate degree shall

be designated for both the lower and upper division. 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 database containing the list of courses and course substitutions that meet the prerequisite requirements for each baccalaureate degree program; and

(g) Development of common definitions necessary for managing a uniform coordinated system of career education for all levels of the state system of public education.

Section 4. Subsection (2) of section 229.595, Florida Statutes, is amended to read:

229.595 Implementation of state system of education accountability for school-to-work transition.—

(2) School accountability efforts shall include information regarding the provision of accurate, timely career and curricular counseling to students. Such accountability shall include a delineation of the information available to students regarding career opportunities, educational requirements associated with each career, educational institutions that prepare students to enter each career, and student financial aid available to enable students to pursue any postsecondary instruction required to enter that career. Such accountability shall also delineate school procedures for identifying individual student interests and aptitudes which enable students to make informed decisions about the curriculum that best addresses their individual interests and aptitudes while preparing them to enroll in postsecondary education and enter the workforce. *Information shall include recommended high school coursework that prepares students for success in college-level work. Such information shall be made known to parents and students annually through inclusion in the institution's handbook, manual, or other similar documents regularly provided to parents and students. Schools are encouraged to implement innovative methods for the communication of information to parents and students.*

Section 5. Paragraph (b) of subsection (2) of section 229.601, Florida Statutes, is amended to read:

229.601 Career education program.—

(2) There is hereby established a career education program in the state educational system. The Commissioner of Education and his or her designated staff shall administer this program. In developing and administering the career education program, the purpose of which is to

promote positive career opportunities for all students regardless of their race, color, creed, national origin, ancestry, socioeconomic status, or gender, the commissioner shall:

(b) Assemble, develop, and distribute instructional materials for use in career education. *Such materials shall include information regarding recommended high school coursework that prepares students for success in college-level coursework.*

Section 6. Section 232.2466, Florida Statutes, is created to read:

232.2466 College-ready diploma program.—

(1) *Beginning with the 1997-1998 school year, each school district shall award a differentiated college-ready diploma to each student who:*

(a) *Successfully completes the requirements for a standard high school diploma as prescribed by s. 232.246. Among courses taken to fulfill the 24-academic-credit requirement, a student must take:*

1. *Two credits in algebra and one credit in geometry, or their equivalents, as determined by the state board.*

2. *One credit in biology, one credit in chemistry, and one credit in physics, or their equivalents, as determined by the state board.*

3. *Two credits in the same foreign language, taken for elective credit. A student whose native language is not English is exempt from this requirement if the student demonstrates proficiency in the native language. American sign language constitutes a foreign language.*

(b) *Takes the postsecondary education common placement test prescribed in s. 240.117, or an equivalent test identified by the State Board of Education, before graduation and scores at or above the established statewide passing score in each test area.*

(2) *A college-ready diploma entitles a student to admission without placement testing to a public postsecondary education program that terminates in a technical certificate, an associate in science degree, or an associate in arts degree, if the student enters postsecondary education within 2 years after earning the college-ready diploma.*

(3) *The Department of Education shall convene a task force of educators and employers to recommend additional incentives for students to pursue a college-ready diploma. The incentives may include awards and recognition, preference for positions in firms, and early registration privileges in postsecondary education institutions.*

Section 7. Subsection (4) of section 239.301, Florida Statutes, 1996 Supplement, is amended to read:

239.301 Adult general education.—

(4) Both community colleges and school districts may conduct adult basic and secondary and vocational-preparatory courses within the same service area. ~~Any state university in which the percentage of incoming students who require college preparatory instruction equals or exceeds 25 percent may conduct college preparatory instruction.~~ Area technical centers and community colleges may contract with each other for the provision of vocational-preparatory instruction.

Section 8. Subsections (7) and (9) of section 240.107, Florida Statutes, are amended to read:

240.107 College-level communication and computation skills examination.—

(7) The State Board of Education, by rule, shall establish fees for the administration of the examination to private postsecondary students. The examination may be administered to students other than those receiving financial aid as required in s. 240.404(1)(a)2., provided that the appropriate fees are paid.

(9) ~~Beginning January 1, 1996,~~ Any student fulfilling one or both ~~more~~ of the following requirements before completion of associate in arts degree requirements or baccalaureate degree requirements is exempt from the testing requirements of this section:

(a) Achieves a score that meets or exceeds a minimum score on a nationally standardized examination ~~listed in the articulation agreement,~~ as established by the Articulation Coordinating Committee; or

(b) Achieves a passing score on the college placement test, required pursuant to s. 240.117, and, as certified on the high school transcript, a cumulative grade point average of 3.0 or above, on a 4.0 scale, in college-preparatory high school coursework identified by the Articulation Coordinating Committee; or

(b)(e) Demonstrates successful remediation of any academic deficiencies identified by the college placement test and achieves a passing score on the college placement test, required pursuant to s. 240.117, and a cumulative grade point average of 2.5 or above, on a 4.0 scale, in postsecondary-level coursework identified by the Postsecondary Education Planning Commission. The Department of Education shall specify the means by which a student may demonstrate successful remediation.

Any student denied a degree prior to January 1, 1996, based on the failure of at least one subtest of the CLAST may use either any of the alternatives specified in this subsection for receipt of a degree if such student meets all degree program requirements at the time of application for the degree under the exemption provisions of this subsection. This section does not require a student to take the CLAST before being given the opportunity to use any of the alternatives specified in this subsection. The exemptions provided herein do not apply to requirements for certification as provided in s. 231.17.

Section 9. Subsections (1) and (2) of section 240.1161, Florida Statutes, are amended to read:

240.1161 District interinstitutional articulation agreements.—

(1) Each superintendent of schools and community college president shall be responsible for the development and implementation of a comprehensive articulated acceleration program for the students enrolled in their respective school districts and service areas. Within this general responsibility, the superintendent and president shall develop a comprehensive interinstitutional articulation agreement for the school district and community college that serves the school district. The superintendent and president shall be encouraged to establish an articulation committee for the purpose of developing this agreement. Each state university president is encouraged to designate a university representative to participate in the development of the interinstitutional articulation agreements for each school district within the university service area.

(2) The district interinstitutional articulation agreement for any school year shall be completed prior to high school registration for the fall term of the following school year. ~~The initial agreement drafted pursuant to this section shall be completed no later than April 1, 1988. The initial agreement and each subsequent agreement shall include, but not be limited to, the following components:~~

(a) A ratification or modification of all existing articulation agreements.

(b) 1. A delineation of courses and programs composed of dual enrollment students.

2.(e) An identification of eligibility criteria for student participation in dual enrollment courses and programs.

3.(d) A delineation of institutional responsibilities regarding student screening prior to enrollment and monitoring student performance subsequent to enrollment in dual enrollment courses and programs.

4.(e) An identification of the criteria by which the quality of dual enrollment courses and programs are to be judged and a delineation of institutional responsibilities for the maintenance of instructional quality.

5.(f) A delineation of institutional responsibilities for assuming the cost of dual enrollment courses and programs that includes such responsibilities for student instructional materials.

6.(g) An identification of responsibility for providing student transportation if the dual enrollment instruction is conducted at a facility other than the high school campus.

(c) Mechanisms and strategies for reducing the incidence of postsecondary remediation in math, reading, and writing for first-time-enrolled recent high school graduates, based upon the findings in the postsecondary readiness for college report produced pursuant to s. 240.118. Each

articulation committee shall annually analyze and assess the effectiveness of the mechanisms toward meeting the goal of reducing postsecondary remediation needs. Results of the assessment shall be annually presented to participating district school boards and community college boards of trustees and shall include, but not be limited to:

1. Mechanisms currently being initiated.
2. An analysis of problems and corrective actions.
3. Anticipated outcomes.
4. Strategies for the better preparation of students upon graduation from high school.
5. An analysis of costs associated with the implementation of postsecondary remedial education and secondary-level corrective actions.
6. The identification of strategies for reducing costs of the delivery of postsecondary remediation for recent high school graduates, including the consideration and assessment of alternative instructional methods and services such as those produced by private providers.

Wherever possible, public schools and community colleges are encouraged to share resources, form partnerships with private industries, and implement innovative strategies and mechanisms such as distance learning, summer student and faculty workshops, parental involvement activities, and the distribution of information over the Internet.

(d) Mechanisms and strategies for promoting "tech prep" programs of study. Such mechanisms should raise awareness about the programs, promote enrollment in the programs, and articulate students from a secondary portion into a planned, related postsecondary portion of a sequential program of study that leads to a terminal postsecondary vocational or technical education degree or certificate.

Section 10. Subsections (3), (4), and (5) of section 240.117, Florida Statutes, as amended by section 15 of Committee Substitute for Senate Bill 458, which was enacted in the 1997 Regular Session of the Legislature, are amended to read:

240.117 Common placement testing for public postsecondary education.—

(3) ~~By January 15, 1996,~~ The Articulation Coordinating Committee shall recommend and the State Board of Education shall adopt rules that ~~which~~ would require high schools to ~~give offer students the opportunity to take~~ the common placement test ~~prescribed in this section, or an equivalent test identified by the State Board of Education,~~ at the beginning of the tenth grade year 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 or other 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 baccalaureate 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 a standardized, institutionally developed ~~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 test or subtest that ~~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.

(b) The administrators of a state university may contract with a community college board of trustees for the community college to provide such instruction on the state university campus. Any state university in which the percentage of incoming students requiring college-preparatory instruction equals or exceeds the average percentage of such students for the community college system may offer college-preparatory instruction without contracting with a community college; however, any state university offering college-preparatory instruction as of January 1, 1996, may continue to provide such services.

(5) A student may not be enrolled in a college credit *mathematics or English* course on a dual enrollment basis unless the student has demonstrated adequate precollegiate preparation on the *section of the basic computation and communication skills assessment* required pursuant to subsections (1) and (2) that is appropriate for successful student participation in the course.

Section 11. Present subsection (3) of section 240.319, Florida Statutes, is redesignated as subsection (4), and a new subsection (3) is added to that section, to read:

240.319 Community college district boards of trustees; duties and powers.—

(3) *Each community college district board of trustees is specifically authorized to adopt rules, procedures, and policies, consistent with law and rules of the State Board of Education and State Board of Community Colleges, related to mission and responsibilities as set forth in s. 240.301, governance, personnel, budget and finance, administration, programs, curriculum and instruction, buildings and grounds, travel and purchasing, technology, students, contracts and grants, or college property.*

Section 12. Section 240.321, Florida Statutes, is amended to read:

240.321 Community college district board of trustees; rules for admissions of students.—

(4) The board of trustees shall make rules governing admissions of students. These rules shall include the following:

(1)(a) Admissions counseling *shall be provided* to all students entering college credit programs, which counseling shall utilize tests to measure achievement of college-level communication and computation competencies by all students entering college credit programs.

(2)(b) Admission to the associate in arts degree *programs program* is subject to minimum standards adopted by the State Board of Education and shall require:

(a)1. A high school diploma, a high school equivalency diploma as prescribed in s. 229.814, previously demonstrated competency in college-credit postsecondary coursework, or, in the case of a student who is home educated, a signed affidavit submitted by the student's parent or legal guardian attesting that the student has completed a home education program pursuant to the requirements of s. 232.02(4) ~~or its equivalent~~. Students who are enrolled in a dual enrollment or early admission program pursuant to s. 240.116 and secondary students enrolled in college-level instruction creditable toward the associate degree, but not toward the high school diploma, shall be exempt from this requirement.

(b)2. A demonstrated level of achievement of college-level communication and computation skills. *Students entering a postsecondary education program within 2 years of graduation from high school with an earned college-ready diploma issued pursuant to s. 232.2466 shall be exempt from this testing requirement.*

(c)3. Any other requirements established by the board of trustees.

(3)(e) Admission to other programs within the community college shall include education requirements as established by the board of trustees.

Each board of trustees shall establish policies that notify students about, and place students into, adult basic education, adult secondary education, or other instructional programs that provide students with alternatives to traditional college-preparatory instruction, including private provider instruction.

(d) ~~Nonresident students may be admitted to the community college upon such terms as the board may establish.~~

(2) ~~For students who are awarded a high school diploma after August 1, 1987:~~

(a) ~~No Florida high school graduate shall be admitted to the associate in arts degree program if he or she has not successfully completed the requirements set forth in s. 232.246 or unless he or she has been awarded a general education development diploma, provided the examination completed for such diploma was in the English language.~~

(b) ~~Nonresident students may be admitted to the community college upon such terms as the college may establish. However, effective August 1, 1987, such terms for nonresidents admitted to the associate in arts degree program shall include, but shall not be limited to:~~

1. ~~Completion of a secondary school curriculum which includes 4 years of English and 3 years each of mathematics, science, and social studies; however, in lieu of the English requirement, a foreign student may use 4 years of instruction in his or her native language or another language which was the language of instruction in the secondary school attended, or~~

2. ~~Achievement of the minimum scores on the test required in s. 240.117(1).~~

Section 13. Paragraph (a) of subsection (1) of section 240.404, Florida Statutes, is amended to read:

240.404 General requirements for student eligibility for state financial aid.—

(1)(a) The general requirements for eligibility of students for state financial aid awards consist of the following:

1. *Achievement of the academic requirements of and acceptance at a state university or community college; a nursing diploma school approved by the Florida Board of Nursing; a Florida college, university, or community college which is accredited by a member of the Commission on Recognition of Postsecondary Accreditation; any Florida institution the credits of which are acceptable for transfer to state universities; any area technical center; or any private vocational-technical institution accredited by a member of the Commission on Recognition of Postsecondary Accreditation.*

2. ~~Participation in the college level communication and computation skills testing program. This requirement is limited to students seeking associate's or bachelor's degrees.~~

2.3. Residency in this state for no less than 1 year preceding the award of aid for a program established pursuant to s. 240.402, s. 240.4021, s. 240.4085, s. 240.409, s. 240.4093, s. 240.4095, s. 240.4097, s. 240.412, s. 240.4125, s. 240.413, s. 240.4987, s. 240.605, or s. 240.606. Residency in this state must be for purposes other than to obtain an education. Resident status for purposes of receiving state financial aid awards shall be determined in the same manner as resident status for tuition purposes pursuant to s. 240.1201 and rules of the State Board of Education.

4. ~~Compliance with Selective Service System registration requirements pursuant to s. 240.4045.~~

3.5. Submission of certification attesting to the accuracy, completeness, and correctness of information provided to demonstrate a student's eligibility to receive state financial aid awards. Falsification of such information shall result in the denial of any pending application and revocation of any award currently held to the extent that no further payments shall be made. Additionally, students who knowingly make false statements in order to receive state financial aid awards shall be guilty of a misdemeanor of the second degree subject to the provisions of s. 837.06 and shall be required to return all state financial aid awards wrongfully obtained.

Section 14. Paragraph (b) of subsection (5) of section 240.412, Florida Statutes, as amended by section 21 of chapter 95-376, Laws of Florida, is amended to read:

240.412 Jose Marti Scholarship Challenge Grant Program.—

(5)

(b) In order to renew a scholarship awarded pursuant to this section, a student *must shall*:

1. Earn a grade point average of at least 3.0 on a 4.0 scale for the previous term, maintain at least a 3.0 average for college work, or have an average below 3.0 only for the previous term and be eligible for continued enrollment at the institution.

2. Maintain full-time enrollment.

~~3.—Participate in the college-level communication and computation skills testing program. Graduate recipients shall be exempt from this requirement.~~

Section 15. Subsection (2) of section 240.437, Florida Statutes, is amended to read:

240.437 Student financial aid planning and development.—

(2) The objective of a state program is the maintenance of a state student financial aid program to supplement a basic national program which will provide equal access to postsecondary education to citizens of this state who have the ability and motivation to benefit from a postsecondary education. In the development of a state program to achieve this objective, it shall be the policy that:

(a) State student financial aid be provided primarily on the basis of financial need;

(b) Students receiving need-based financial aid be expected to contribute toward their cost of education through self-help resources such as savings, work, and loans;

(c) Student financial aid be available to state residents for attendance at accredited public or private institutions of higher education in this state;

(d) Student financial aid be provided for all levels of postsecondary education; and

(e) State student financial aid be administered by a central state agency.

~~(f) Effective August 1, 1985, students enrolled in associate in arts degree programs and bachelor's degree programs in independent institutions in this state who receive state aid pursuant to s. 240.402, s. 240.4063, s. 240.4085, s. 240.4095, s. 240.4097, s. 240.412, s. 240.605, or s. 240.606 participate in the college-level communication and computation skills testing program provided in s. 229.551. The department and the eligible institutions shall negotiate an agreement that will assure that the test is available to students either directly through the independent institutions or on a contractual basis with a state community college or university. Before August 1, 1985, all independent institutions subject to this provision shall have an opportunity to participate in preliminary testing activities similar to those afforded the public institutions before the initiation of formal testing; and the independent sector shall be afforded appropriate representation on all committees and commissions charged with responsibilities for developing, administering, and evaluating the tests.~~

Planning and development *must shall* be in accordance with the foregoing objective and policies.

Section 16. This act shall take effect July 1, 1997.

And the title is amended as follows:

Delete everything before the enacting clause and insert: An act relating to postsecondary education; requiring the Division of Community Colleges and the Department of Education to conduct a study; amending s. 229.551, F.S.; authorizing certain courses to be designated as upper-division and lower-division; amending s. 229.595, F.S.; requiring the

inclusion of student postsecondary preparedness information in manuals and handbooks; amending s. 229.601, F.S.; providing for recommended high school coursework information; creating s. 232.2466, F.S.; providing requirements for a college-ready diploma program; requiring a task force to recommend incentives for pursuit of a college-ready diploma; amending s. 239.301, F.S.; deleting conflicting provisions; amending s. 240.1161, F.S.; requiring implementation strategies for reducing the incidence of postsecondary remediation; requiring an assessment of activities and the presentation of outcomes; providing for the promotion of "tech prep" activities; amending s. 240.107, F.S.; revising provisions relating to the college-level communication and computation skills examination; providing exemptions from a required test; amending s. 240.117, F.S.; requiring the administration of the common placement test or an equivalent test during the tenth grade; requiring the administration of an institutionally developed test in lieu of the common placement test as an exit exam from remedial instruction; clarifying language regarding the offering of college-preparatory instruction; amending s. 240.319, F.S.; authorizing community colleges to adopt rules; amending s. 240.321, F.S.; applying entrance requirements to all degree programs; permitting a demonstration of competency as an alternative degree program admission requirement; providing an exemption from the testing requirement under certain circumstances; requiring the establishment of institutional policies regarding alternatives to traditional college-preparatory instructional methods; amending s. 240.404, F.S.; deleting a requirement for participation in a testing program; requiring achievement of certain academic requirements as a condition for receiving state student financial aid; deleting a requirement; amending s. 240.412, F.S.; amending s. 240.437, F.S.; deleting a CLAST requirement; providing an effective date.

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

Amendment 1A (with title amendment)—On page 22, between lines 8 and 9, insert:

Section 16. Subsection (6) of section 231.17, Florida Statutes, 1996 Supplement, is amended to read:

(6) STATE BOARD RULES.—~~By January 1, 1991,~~

~~(a) The State Board of Education shall adopt promulgate rules as necessary to implement this section for initial certification specifically covering ages birth through 4 years and grade spans prekindergarten or age 3 through grade 3, grades 5 through 9, and others as designated by the State Board of Education.~~

~~(b) By August 1, 1997, the State Board of Education shall adopt rules for certification in the area of speech and language impairments at the bachelor's level. Candidates for certification in this area shall provide services under the direction of a speech-language pathologist.~~

(Renumber subsequent section.)

And the title is amended as follows:

On page 24, line 7, after the semicolon (;) insert: amending s. 231.17, F.S.; providing specific authority to adopt rules related to the educational certification of speech pathologists;

Amendment 1B (with title amendment)—On page 22, between lines 8 and 9, insert:

Section 16. Subsection (1) of section 240.235, Florida Statutes, is amended to read:

240.235 Fees.—

(1) Each university is authorized to establish separate activity and service, health, and athletic fees, *which are defined as state revenues and which must be established annually in the General Appropriations Act.* When duly established, the fees shall be collected as component parts of the registration and tuition fees and shall be retained by the university and paid into the separate activity and service, health, and athletic *fund accounts within the Educational and General Student and Other Fees Trust Fund funds.*

(a1). *Within the ranges established in the General Appropriations Act, each university president shall establish a student activity and*

service fee on the main campus of the university. The university president may also establish a student activity and service fee on any branch campus or center. Any subsequent increase in the activity and service fee must be recommended by an activity and service fee committee, at least one-half of whom are students appointed by the student body president. The remainder of the committee shall be appointed by the university president. A chairperson, appointed jointly by the university president and the student body president, shall vote only in the case of a tie. The recommendations of the committee shall take effect only after approval by the university president, after consultation with the student body president, with final approval by the Board of Regents. An increase in the activity and service fee may occur only once each fiscal year and must be implemented beginning with the fall term. The Board of Regents is responsible for promulgating the rules and timetables necessary to implement this fee.

2. *Within the ranges established in the General Appropriations Act, the student activity and service fees shall be expended for lawful purposes to benefit the student body in general. This shall include, but shall not be limited to, student publications and grants to duly recognized student organizations, the membership of which is open to all students at the university without regard to race, sex, or religion. The fund may not benefit activities for which an admission fee is charged to students, except for student-government-association-sponsored concerts. The president of each university must survey the student body at least once every 3 years to determine priorities for the use of activity and service fee revenue. The survey results must be made public and must be transmitted to the student government association for consideration in preparing the fund budget. The student government association must annually prepare and submit a budget for the allocation of fee revenue to the university president. The budget must be approved by the allocation and expenditure of the fund shall be determined by the student government association of the university, except that the president of the university, who may veto any line item or portion thereof within the budget when submitted by the student government association legislative body. The university president shall have 30 45 school days from the date of presentation of the budget to act on the allocation and expenditure recommendations, which shall be deemed approved if no action is taken within the 30 45 school days. If any line item or portion thereof within the budget is vetoed, the student government association legislative body shall within 30 45 school days make new budget recommendations for expenditure of the vetoed portion of the fund. If the university president vetoes any line item or portion thereof within the new budget revisions, the university president may reallocate by line item that vetoed portion to bond obligations guaranteed by activity and service fees. Funds may not be used for the construction, remodeling, or expansion of facilities, unless approved in the General Appropriations Act. Unexpended funds and undisbursed funds remaining at the end of a fiscal year shall be carried over and remain in the student activity and service fund and be available for allocation and expenditure during the next fiscal year.*

(b)1. *Within the range established in the General Appropriations Act, each university president shall establish a student health fee on the main campus of the university. The university president may also establish a student health fee on any branch campus or center. Any subsequent increase in the health fee must be recommended by a health committee, at least one-half of whom are students appointed by the student body president. The remainder of the committee shall be appointed by the university president. A chairperson, appointed jointly by the university president and the student body president, shall vote only in the case of a tie. The recommendations of the committee shall take effect only after approval by the university president, after consultation with the student body president, with final approval by the Board of Regents. An increase in the health fee may occur only once each fiscal year and must be implemented beginning with the fall term. The Board of Regents is responsible for promulgating the rules and timetables necessary to implement this fee.*

2. *Within the ranges established in the General Appropriations Act, the student health fee shall be expended for lawful purposes to benefit the student body in general. The benefit includes primary care for enrolled students, health and fitness services, and other health-related services. The president of each university must survey the student body at least once every 3 years to determine priorities for the use of health fee revenue. The survey results must be made public and must be transmitted to the student government association for consideration in preparing the fund budget. The student government association must annually prepare and submit a budget for the allocation of fee revenue to the university president. The budget must be approved by the president, who may veto any*

line item or portion thereof. Funds may not be used for the construction, remodeling, or expansion of facilities unless approved in the General Appropriations Act. Unexpended funds and undisbursed funds remaining at the end of the fiscal year must be carried forward and remain in the health fee fund and be available for allocation and expenditure during the next fiscal year.

(c)1. Each university president shall establish a separate athletic fee on the main campus of the university. The university president may also establish a separate athletic fee on any branch campus or center. ~~The initial aggregate athletic fee at each university shall be equal to, but may be no greater than, the 1982-1983 per credit hour activity and service fee contributed to intercollegiate athletics, including women's athletics, as provided by s. 240.533. Concurrently with the establishment of the athletic fee, the activity and service fee shall experience a one-time reduction equal to the initial aggregate athletic fee.~~ Any subsequent increase in the athletic fee must be recommended by an athletic fee committee, at least one-half of whom are students appointed by the student body president. The remainder of the committee shall be appointed by the university president. A chairperson, appointed jointly by the university president and the student body president, shall vote only in the case of a tie. The recommendations of the committee shall take effect only after approval by the university president, after consultation with the student body president, with final approval by the Board of Regents. An increase in the athletic fee may occur only once each fiscal year and must be implemented beginning with the fall term. The Board of Regents is responsible for promulgating the rules and timetables necessary to implement this fee.

2. *Within the ranges established in the General Appropriations Act, the student athletic fee shall be expended for lawful purposes to benefit the student body in general. The benefit includes operating support for athletic programs, scholarships, and academic support for student athletes. The president of each university must survey the student body at least once every 3 years to determine priorities for the use of athletic fee revenue. The survey results must be made public and must be transmitted to the student government association for consideration in preparing the fund budget. The student government association must annually prepare and submit a budget for the allocation of fee revenue to the university president. The budget must be approved by the president, who may veto any line item or portion thereof. Funds may not be used for the construction, remodeling, or expansion of facilities unless approved in the General Appropriations Act. Unexpended funds and undisbursed funds remaining at the end of the fiscal year must be carried forward and remain in the athletic fee fund and be available for allocation and expenditure during the next fiscal year.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 24, line 7, after the semicolon (;) insert: amending s. 240.235, F.S.; defining fees; providing for fee ranges; providing budget procedures; restricting the use of fee revenue for certain purposes;

Amendment 1C (with title amendment)—On page 22, between lines 8 and 9, insert:

Section 16. Section 240.36, Florida Statutes, is amended to read:

240.36 *Dr. Philip Benjamin Florida Academic Improvement Trust Fund for Community Colleges.*—

(1) There is created the *Dr. Philip Benjamin Florida Academic Improvement Trust Fund for Community Colleges* to be administered according to rules of the State Board of Community Colleges. This trust fund shall be used to encourage private support in enhancing public community colleges by providing *the community college system colleges* with the opportunity to receive and match challenge grants.

(2) Funds appropriated shall be deposited in the trust fund and shall be invested pursuant to s. 18.125. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any undisbursed balance remaining in the trust fund and interest income accruing to that portion of the trust fund not matched shall remain in the trust fund and shall increase the total funds available for challenge grants. At the end of a fiscal year, any unexpended balance of an appropriation in the trust fund will not revert to the fund from which appropriated, but will remain in the trust fund until used for the purposes specified in this section.

(3) For every year in which there is a legislative appropriation to the trust fund, no less than \$25,000 must be reserved to permit each community college and the State Board of Community Colleges, which shall be an eligible community college entity for the purposes of this section, an opportunity to match challenge grants. The balance of the funds shall be available for matching by any eligible community college entity. Trust funds which remain unmatched by contribution on March 1 of any year shall also be available for matching by any community college entity. The State Board of Community Colleges shall adopt rules providing all community college entities colleges with an opportunity to apply for excess trust funds prior to the awarding of such funds. However, no community college may receive more than its percentage of the total full-time equivalent enrollment or 15 percent, whichever is greater, of the funds appropriated to the trust fund for that fiscal year and, likewise, the State Board of Community Colleges may not receive more than 15 percent of the funds appropriated to the trust fund for that fiscal year. A community college entity shall place all funds it receives in excess of the first challenge grant and its matching funds in its endowment fund and only the earnings on that amount may be spent for approved projects. A community college entity may spend the first challenge grant and its matching funds as cash for any approved project, except scholarships. If a community college entity proposes to use any amount of the grant or the matching funds for scholarships, it must deposit that amount in its endowment in its academic improvement trust fund and use the earnings of the endowment to provide scholarships.

(4) Challenge grants shall be proportionately allocated from the trust fund on the basis of matching each \$4 of state funds with \$6 of local or private funds. The matching funds shall come from contributions made after July 1, 1983, for the purposes of matching this grant. To be eligible, a minimum of \$4,500 must be raised from private sources, and such contributions must be in excess of the total average annual cash contributions made to the foundation at each community college in the 3 fiscal years before July 1, 1983.

(5) Funds sufficient to provide the match shall be transferred from the state trust fund to the local community college foundation or the statewide community college foundation in increments of \$3,000 upon notification that a proportionate amount has been received and deposited by the community college entity in its own trust fund.

(6) Each community college entity shall establish its own academic improvement trust fund as a depository for the private contributions and matching state fund established herein. The foundations of the foundation at each community college entities are is responsible for the maintenance, investment, and administration of their its academic improvement trust funds fund.

(7)(a) The board of trustees of the community college and the State Board of Community Colleges are is responsible for determining the uses for the proceeds of their respective trust funds the trust fund. Such uses for the proceeds shall be limited to expenditure of the funds for may include:

1. Scientific and technical equipment.
2. Other activities that will benefit future students as well as students currently enrolled at the community college and that will improve the quality of education at the community college or in the community college system.
3. Scholarships, which are the lowest priority for use of these funds.

(b) If a community college includes scholarships in its proposal, it shall create an endowment in its academic improvement trust fund and use the earnings of the endowment to provide scholarships. Such scholarships must be program specific and require high academic achievement for students to qualify for or retain the scholarship. A scholarship program may be used for minority recruitment but may not be used for athletic participants. The board of trustees may award scholarships to students in associate in arts programs and vocational programs. However, for vocational programs, the board of trustees must have designated the program as a program of emphasis for quality improvement, a designation that should be restricted to a limited number of programs at the community college. In addition, the board of trustees must have adopted a specific plan that details how the community college will improve the quality of the program designated for emphasis and that includes quality measures and outcome measures. Over a period of time, the community college operating budget should show additional financial commit-

ment to the program of emphasis above and beyond the average increases to other programs offered by the community college. Fundraising activities must be specifically identified as being for the program of emphasis or scholarship money. The community college must fully levy the amount for financial aid purposes provided by s. 240.35(10) in addition to the tuition and matriculation fee before any scholarship funds are awarded to the community college as part of its approved request.

(c) Proposals for use of the trust fund shall be submitted to the State Board of Community Colleges for approval. Any proposal not acted upon in 60 days shall be considered not approved.

(8) The State Board of Community Colleges shall establish rules to provide for the administration of this fund. Such rules shall establish the minimum challenge grant reserved for each community college entity and the maximum amount which a community college entity may receive from a legislative appropriation in any fiscal year in accordance with the provisions of the General Appropriations Act.

(Renumber subsequent section.)

And the title is amended as follows:

On page 24, line 7, after the semicolon (;) insert: amending s. 240.36, F.S.; revising provisions relating to the Florida Academic Improvement Trust Fund for Community Colleges;

Senator Grant moved the following amendment to **Amendment 1**:

Amendment 1D (with title amendment)—On page 22, between lines 8 and 9, insert:

Section 16. Effective upon this act becoming a law and operating retroactively to July 1, 1996, subsection (1) of section 120.81, Florida Statutes, 1996 Supplement, is amended to read:

120.81 Exceptions and special requirements; general areas.—

(1) EDUCATIONAL UNITS.—

(a) The preparation or modification of curricula by an educational unit is not a rule as defined by this chapter.

(b) Notwithstanding s. 120.52(15), 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 tests required by law, are not rules.

(c) Notwithstanding s. 120.54(1)(g), educational units, other than units of the State University System and the Florida School for the Deaf and the Blind, may adopt multiple subject rules such as catalogs, bulletins, handbooks, and personnel agendas.

(d) Notwithstanding s. 120.54(2), a notice of rule development by an educational unit need not include the preliminary text of the proposed rules and notice 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.

(e)(e) Notwithstanding s. 120.54(3)(a), notice of intent by an educational unit to adopt, amend, or repeal a rule or notice by an educational unit of a petition for a declaratory statement need not include the full text of the proposed rule or amendment be published in the Florida Administrative Weekly or transmitted to the committee; however, the notice, for other than an emergency rule, shall be made at least 21 days prior to the intended action:

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.

~~(f)(d)~~ Notwithstanding s. 120.54(3)(a)4, Educational units, other than units of the State University System and the Florida School for the Deaf and the Blind, shall not be required to make filings with the committee of the documents required to be filed by that subparagraph.

~~(g)~~ Educational units, other than units of the State University System and the Florida School for the Deaf and the Blind, shall not be required to publish notices in the Florida Administrative Weekly.

~~(h)(e)~~ Notwithstanding s. 120.57(1)(a), hearings which involve student disciplinary suspensions or expulsions may be conducted by educational units.

~~(i)(f)~~ Sections 120.569 and 120.57 do not apply to any proceeding in which the substantial interests of a student are determined by *community college districts* or 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 rules and guidelines ensuring fairness and due process in judicial proceedings involving students in the State University System.

~~(j)(g)~~ Notwithstanding ss. 120.569 and 120.57, in a hearing involving a student disciplinary suspension or expulsion conducted by an educational unit, the 14-day notice of hearing requirement may be waived by the agency head or the hearing officer without the consent of parties.

~~(k)(h)~~ For purposes of s. 120.68, a district school board whose decision is reviewed under the provisions of s. 231.36 and whose final action is modified by a superior administrative decision shall be a party entitled to judicial review of the final action.

~~(l)(i)~~ Notwithstanding s. 120.525(2), 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 the meeting.

~~(m)~~ Notwithstanding s. 120.54(2)(c), educational units, other than units of the State University System and the Florida School for the Deaf and the Blind, shall not be required to hold public workshops outside their respective districts.

~~(n)~~ Educational units, other than units of the State University System and the Florida School for the Deaf and the Blind, shall be exempt from ss. 120.536, 120.54(5), 120.542, and 120.74.

Section 17. Subsection (1) of section 120.545, Florida Statutes, 1996 Supplement, is amended to read:

120.545 Committee review of agency rules.—

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.81(1)~~(f)(d)~~ and (2), 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) The rule is consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements.
- (g) The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law which the rule implements.

(h) 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.

(i) The rule could be made less complex or more easily comprehensible to the general public.

(j) The rule does not impose regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

(k) The rule will require additional appropriations.

(l) If the rule is an emergency rule, there exists an emergency justifying the promulgation of such rule, the agency has exceeded the scope of its statutory authority, and the rule was promulgated in compliance with the requirements and limitations of s. 120.54(4).

Section 18. Paragraph (a) of subsection (22) of section 228.041, Florida Statutes, 1996 supplement, is amended to read:

228.041 Definitions.—Specific definitions shall be as follows, and wherever such defined words or terms are used in the Florida School Code, they shall be used as follows:

(22) CAREER EDUCATION.—

(a) "Career education" is defined as meaning that instruction not necessarily leading to a baccalaureate degree, either graded or ungraded, listed below:

1. Job-preparatory instruction in the minimum competencies necessary for effective entry into an occupation, including diversified cooperative education, work experience, and job entry programs which coordinate directed study and on-the-job training;
2. Exploratory courses designed to give students initial exposure to the skills and aptitudes associated with a broad range of occupations in order to assist them in making informed decisions regarding their future academic and occupational goals;
3. Supplemental programs designed to enable persons who are or have been employed in an occupation to upgrade their competencies in order to reenter or maintain employment or advance within their current occupation;
4. Practical arts courses designed to teach students practical generic skills which, though applicable to some occupations, are not designed to prepare students for entry into a specific occupation. Such courses may include, but may not be limited to, typing, industrial arts, and *family and consumer sciences home-economics*; or
5. Instruction which integrates the basic academic skills and vocational skills.

Section 19. Paragraph (c) of subsection (1) of section 231.1725, Florida Statutes, is amended to read:

231.1725 Employment of substitute teachers, teachers of adult education, nondegreed teachers of career education, and noncertificated teachers in critical teacher shortage areas.—

(1) Notwithstanding the provisions of ss. 231.02, 231.15, 231.17, and 231.172 or any other provision of law or rule to the contrary, each school board shall establish the minimal qualifications for:

(c) Part-time and full-time nondegreed teachers of vocational programs. Qualifications shall be established for agriculture, business, health occupations, *family and consumer sciences home-economics*, industrial, marketing, and public service education teachers, based primarily on successful occupational experience rather than academic training. The qualifications for such teachers shall require:

1. The filing of a complete set of fingerprints in the same manner as required by s. 231.02. Faculty employed solely to conduct postsecondary instruction may be exempted from this requirement.
2. Documentation of education and successful occupational experience including documentation of:
 - a. A high school diploma or the equivalent.
 - b. Completion of 6 years of full-time successful occupational experience or the equivalent of part-time experience in the teaching specializa-

tion area. Alternate means of determining successful occupational experience may be established by the school board.

c. Completion of career education training conducted through the local school district inservice master plan.

d. For full-time teachers, completion of professional education training in teaching methods, course construction, lesson planning and evaluation, and teaching special needs students. This training may be completed through coursework from a standard institution or an approved district teacher education program.

e. Demonstration of successful teaching performance.

Section 20. Paragraph (c) of subsection (7) of section 232.246, Florida Statutes, is amended to read:

232.246 General requirements for high school graduation.—

(7) No student may be granted credit toward high school graduation for enrollment in the following courses or programs:

(c) More than three credits in practical arts *family and consumer sciences* ~~home economics~~ classes as defined in s. 228.041(22)(a)4.

Section 21. Paragraph (c) of subsection (4) of section 233.067, Florida Statutes, 1996 Supplement, is amended to read:

233.067 Comprehensive health education and substance abuse prevention.—

(4) ADMINISTRATION OF THE COMPREHENSIVE HEALTH EDUCATION AND SUBSTANCE ABUSE PREVENTION PROGRAM.—

(c) The comprehensive health education and substance abuse prevention program shall include the following in all public and laboratory schools:

1. Implementation of inservice education programs for teachers, counselors, and other persons, which programs deal with comprehensive health education, substance abuse prevention, prevention of sexually transmissible diseases, especially human immunodeficiency virus infection and acquired immune deficiency syndrome, and the benefits of sexual abstinence and consequences of teenage pregnancy. Such inservice education programs shall be consistent with the master plan, as specified in s. 236.0811, and shall include training in substance abuse identification and prevention. The training plan may provide for the option of using teachers as trainers and shall include, but not be limited to: information on current theory, knowledge, and practice regarding substance abuse; identification and referral procedures; legal issues; peer counseling; and methods of teaching decisionmaking skills and building self-concept. Inservice teacher education materials and student materials which are based upon individual performance and designed for use with a minimum of supervision shall be developed and made available to all school districts and laboratory schools.

2. Implementation of management training programs consistent with the provisions of s. 231.087 for principals and other school leaders on the identification, prevention, and treatment of substance abuse and the availability of local and regional referral resources.

3. Instruction in nutrition education as a specific area of health education instruction. Nutrition education shall include, but not be limited to, sound nutritional practices, wise food selection, analysis of advertising claims about food, proper food preparation, and food storage procedures. The purpose of such nutrition education programs shall be to educate students in the overall area of nutrition education and significantly reduce health problems associated with poor or improper nutrition practices.

4. Instruction in substance abuse prevention in kindergarten through grade 12. Such instruction shall be designed to meet local needs and priorities and shall articulate clear instructional objectives aimed at the prevention of alcohol and substance abuse. The instruction shall be appropriate for the grade and age of the student and shall reflect current theory, knowledge, and practice regarding prevention of substance abuse and may contain instruction in such components as health, personal, and economic consequences of substance abuse and instruction

in decisionmaking, resisting peer pressure, self-concept building skills, and identifying and dealing with situations that pose a risk to one's health and may lead to substance abuse.

5. Instruction in the causes, transmission, and prevention of human immunodeficiency virus infection and acquired immune deficiency syndrome and other sexually transmissible diseases for students. Such instruction shall be included in appropriate middle school or junior high school health and science courses and in life management skills and other high school courses. Any student whose parent makes written request to the school principal shall be exempt from reproductive health or AIDS instructional activities, as requested. Curriculum frameworks for comprehensive health education shall not interfere with the local determination of appropriate curriculum which reflects local values and concerns.

6. Upon approval by the district school board, an opportunity for 9th-12th grade students to receive instruction in cardiopulmonary resuscitation in order to become certified in that technique. A school district may enter a cooperative arrangement with a local government or nonprofit association to provide training in cardiopulmonary resuscitation through instructors certified in that technique.

7. Design and development of programs for the selection and training of health education instructors from existing teaching staff and the orientation to teaching roles for persons employed in appropriate health fields and community volunteers.

8. Development of training programs to allow the use of school food service personnel as resource persons.

9. Instruction in reproductive health, interpersonal skills, and parenting to reduce teenage pregnancy and to promote healthy behavior in Florida's children for all students in kindergarten through grade 12, beginning with the 1991-1992 school year. In order that children make informed and constructive decisions about their lives, complete and accurate comprehensive health education shall be made available to all young people. Curriculum shall be developed to reduce destructive behavior in children, including early sexual involvement, substance abuse, suicide, and activities which result in sexually transmitted diseases, acquired immune deficiency syndrome, and early teenage pregnancy, with subject materials appropriate to the grade level and values consistent with those of the community. Instruction shall also include an understanding of the body and its systems and identification and prevention of child abuse in the lower grades and decisionmaking in the middle and higher grades. Instruction in human sexuality shall take into account the whole person, shall present ethical and moral dimensions, shall not be an expression of any one sectarian or secular philosophy, and shall respect the conscience and rights of students and parents. School districts and laboratory schools are encouraged to provide written materials on reproductive health to parents, as well as opportunities for parents to become informed about the instruction their children are receiving and to receive instruction themselves. All course materials and oral or visual instruction shall conform to the requisites and intent of all Florida law and the State Constitution. All instructional materials, including teachers' manuals, films, tapes, or other supplementary instructional material shall be available for inspection by parents or guardians of the children engaged in such classes.

10. Instruction in the benefits of sexual abstinence and consequences of teenage pregnancy, sexually transmitted diseases, and acquired immune deficiency syndrome in appropriate middle school or junior high school health, science, and *family and consumer sciences* ~~home economics~~ courses and in life management skills and other appropriate high school courses. Curriculum frameworks shall be created or modified as necessary to help ensure such instruction.

Section 22. Paragraph (l) of subsection (1) of section 236.081, Florida Statutes, 1996 Supplement, is amended 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:

(l) Instruction in *family and consumer sciences home economics*.—Students in grades K through 12 who are enrolled for more than six semesters in practical arts *family and consumer sciences home economics* courses as defined in s. 228.041(22)(a)4. may not be counted as full-time equivalent students for this instruction.

Section 23. Subsections (3) through (10) of section 239.105, Florida Statutes, are amended to read:

239.105 Definitions.—As used in this chapter, the term:

(3) “Adult secondary education” means courses through which a person receives high school credit that leads to the award of a high school diploma or programs of instruction through which a student prepares to take the general educational development test. *This includes grade levels 9.0 through 12.9.*

(4) “Basic literacy” *which is also referred to as “beginning adult basic education”* means the demonstration of academic competence *from 2.0 through 5.9 at a fifth-grade educational grade levels level* as measured by means approved for this purpose by the State Board of Education.

(5) “*Beginning literacy*” means the demonstration of academic competence *from 0 through 1.9 educational grade levels as measured by means approved for this purpose by the State Board of Education.*

(6)(5) “College-preparatory instruction” means courses through which a high school graduate who applies for a degree program may attain the communication and computation skills necessary to enroll in college credit instruction.

(7)(6) “Commissioner” means the Commissioner of Education.

(8)(7) “Community education” means the use of a school or other public facility as a community center operated in conjunction with other public, private, and governmental organizations for the purpose of providing educational, recreational, social, cultural, health, and community services for persons in the community in accordance with the needs, interests, and concerns of that community.

(9)(8) “Department” means the Department of Education.

(10)(9) “Document literacy” means the demonstration of competence in identifying and using information located in materials such as charts, forms, tables, and indexes.

(11) “*Family literacy*” means a program for adults with a literacy component for parents and children or other intergenerational literacy components.

(12)(10) “Functional literacy” *which is also referred to as “intermediate adult basic education”* means the demonstration of academic competence *from 6.0 through 8.9 at an eighth-grade educational grade levels level* as measured by means approved for this purpose by the State Board of Education.

Section 24. Section 239.205, Florida Statutes, is amended to read:

239.205 State Board of Education rules regarding career education programs; common definitions; criteria for determining program level; ~~basic skills standards.~~—

(1) The State Board of Education shall adopt, by rule, common definitions for associate in science degrees and for certificates.

(2) The State Board of Education shall develop guidelines to determine the criteria by which the level of degree or certificate is assigned to a vocational program. The guidelines must ensure that assignments are made at the lowest level possible commensurate with sound professional practice; however, the guidelines must also ensure that assignments are updated for programs that increase in technical complexity or general education requirements beyond the parameters of a certificate program. Institutions may continue to offer existing programs that are assigned to a lower level; however, such programs shall be funded at the assigned level. The State Board of Education shall adopt rules regarding reporting requirements for vocational programs.

(3) ~~The State Board of Education shall adopt, by rule, basic skills standards to be met by each vocational student prior to completion of a certificate career education program.~~

Section 25. Subsections (1) and (2) of section 239.213, Florida Statutes, are amended to read:

239.213 Vocational-preparatory instruction.—

(1) The State Board for Career Education shall adopt, by rule, standards of basic skill mastery for certificate career education programs ~~of less than 1,800 hours.~~ Each school district and community college that conducts certificate career education programs shall provide vocational-preparatory instruction through which students receive the basic skills instruction required pursuant to this section.

(2) Students who enroll in a certificate career education program of 450 hours or more shall complete an entry-level examination within the first 6 weeks of admission into the program. The state board shall designate examinations that are currently in existence, the results of which are comparable across institutions, to assess student mastery of basic skills. Any student deemed to lack a minimal level of basic skills for such program shall be referred to vocational-preparatory instruction *or adult basic education* for a structured program of basic skills instruction. Such instruction may include English for speakers of other languages. A student may not receive a certificate of vocational program completion prior to demonstrating the basic skills required in the state curriculum frameworks for the vocational program.

Section 26. Paragraphs (b) and (d) of subsection (2) of section 239.229, Florida Statutes, are amended to read:

239.229 Vocational standards.—

(2)

(b) School board, superintendent, and area technical center, and community college board of trustees and president, accountability for certificate career education programs includes, but is not limited to:

1. Student demonstration of the academic skills necessary to enter an occupation.

2. Student preparation to enter an occupation in an entry-level position or continue postsecondary study.

3. Vocational program articulation with other corresponding postsecondary programs *and job training experiences.*

4. Employer satisfaction with the performance of vocational program completers.

5. Student completion and placement rates as defined in s. 239.233.

(d) Department of Education accountability for career education includes, but is not limited to:

1. The provision of timely, accurate technical assistance to school districts and community colleges.

2. The provision of timely, accurate information to the State Board for Career Education, the Legislature, and the public.

3. The development of policies, rules, and procedures that facilitate institutional attainment of the accountability standards and coordinate the efforts of all divisions within the department.

4. *The development of program standards and industry-driven benchmarks for vocational, adult, and community education programs.*

5.4. Overseeing school district and community college compliance with the provisions of this chapter.

Section 27. Section 239.305, Florida Statutes, is amended to read:

239.305 Adult literacy.—

(1)(a) An adult, individualized literacy instruction program is created for adults who ~~do not~~ possess basic literacy skills *below the ninth grade level.* The purpose of the program is to provide self-paced, competency-based, individualized tutorial instruction. The commissioner shall administer this section in coordination with the State Board of Community Colleges, local school boards, and the Division of Library and Information Services of the Department of State ~~pursuant to State Board of Education rule.~~

(b) Local adult, individualized literacy instruction programs may be coordinated with local public library systems and with public or private nonprofit agencies, organizations, or institutions. A local public library system and a public or private nonprofit agency, organization, or institution may use funds appropriated for the purposes of this section to hire program coordinators. Such coordinators shall offer training activities to volunteer tutors and oversee the operation of local literacy programs. A local public library system and a public or private nonprofit agency, organization, or institution may also purchase student instructional materials and modules that instruct tutors in the teaching of basic and functional literacy and English for speakers of other languages. To the extent funds are appropriated, cooperating local library systems shall purchase, and make available for loan, reading materials of high interest and with a vocabulary appropriate for use by students *who possess literacy skills below the ninth grade level in basic and functional literacy instruction* and students of English for speakers of other languages.

(2)(a) The adult literacy program is intended to *increase reduce* adult literacy illiteracy as prescribed in the agency functional plan of the Department of Education. The commissioner shall establish guidelines for the purpose of determining achievement of this goal.

(b) Each participating local sponsor shall submit an annual report to the commissioner which must contain, ~~but need not be limited to, the following information to demonstrate the extent to which there has been:~~

- ~~1.—The number of clients served.~~
- ~~2.—The progress toward increasing the percentage of adults within the service area who possess literacy skills. As evidence of such progress, the report must include information regarding the number of students enrolled in adult basic education programs and the number of students who completed, separated from, or continued in the programs.~~

(c) ~~Based on the information provided from the local reports, the commissioner shall develop an annual status report on literacy and adult education. The commissioner shall review the annual reports of local sponsors and submit to the State Board of Education a county-by-county summary of the information.~~

(3) Funds appropriated for the purposes of this section shall be allocated as grants for implementing adult literacy programs. Such funds may not be used to supplant funds used for activities that would otherwise be conducted in the absence of literacy funding. A grant awarded pursuant to this section may not exceed \$50,000. Priority for the use of such funds shall be given to paying expenses related to the instruction of volunteer tutors, including materials and the salary of the program coordinator. Local sponsors may also accept funds from private sources for the purposes of this section.

(4)(a) The commissioner shall submit a state adult literacy plan to the State Board of Education to serve as a reference for school boards and community colleges to *increase reduce* adult literacy illiteracy in their service areas as prescribed in the agency functional plan of the Department of Education. The plan must include, at a minimum:

1. Policies and objectives for adult literacy programs, including evaluative criteria.
2. Strategies for coordinating adult literacy activities with programs and services provided by other state and local nonprofit agencies, as well as strategies for maximizing other funding, resources, and expertise.
3. Procedures for identifying, recruiting, and retaining adults who *possess lack basic and functional literacy skills below the ninth grade level.*
4. Sources of relevant demographic information and methods of projecting the number of adults who ~~do not possess basic or functional literacy skills below the ninth grade level.~~
5. Acceptable methods of demonstrating compliance with the provisions of this section.
6. Guidelines for the development and implementation of local adult literacy plans. At a minimum, such guidelines must address:
 - a. The recruitment and preparation of volunteer tutors.

b. Interagency and intraagency cooperation and coordination, especially with public libraries and other sponsors of literacy programs.

c. Desirable learning environments, including class size.

d. Program evaluation standards.

e. Methods for identifying, recruiting, and retaining adults in literacy programs.

f. ~~Prevention of Adult literacy illiteracy through family literacy and workforce literacy parenting education programs.~~

(b) Every 3 years, the school board or community college board of trustees shall *develop and maintain* ~~submit~~ a local adult literacy plan to the commissioner for review and subsequent approval or disapproval. ~~The commissioner shall notify the superintendent of schools or the president of the community college, as applicable, of the approval or disapproval of the plan. If the plan is not brought into compliance by the school district or community college within 60 days after receiving notice of disapproval by the commissioner, the school district or community college may not receive any funds from appropriations for the purposes of this section for the subsequent fiscal year.~~

Section 28. *Subsection (5) of section 240.3575 and subsection (1) of section 240.3815, Florida Statutes, and subsection (5) of section 240.382, Florida Statutes, as created by chapter 94-220, Laws of Florida, are repealed.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 24, line 7, after the semicolon (;) insert: amending s. 120.81, F.S.; providing for exceptions to rule requirements, notice requirements, and filing requirements; providing for certain exemptions for educational units; providing for retroactive effect; amending s. 120.545, F.S.; conforming a cross-reference; amending ss. 228.041, 231.1725, 232.246, 233.067 and 236.081, F.S.; renaming home economics courses as family and consumer sciences courses; amending s. 239.105, F.S.; revising definitions of the terms "adult secondary education," "basic literacy," and "functional literacy"; defining the terms "beginning literacy" and "family literacy"; amending s. 239.205, F.S.; deleting a rulemaking requirement regarding career education programs; amending s. 239.213, F.S.; revising provisions relating to standards of basic skills mastery; providing for the use of adult basic education to meet certain needs; amending s. 239.229, F.S.; requiring the identification of vocational standards related to work experience; requiring the development of additional program standards and benchmarks; amending s. 239.305, F.S., relating to adult literacy; conforming provisions to revised definitions; removing a State Board of Education rule requirement; removing specific annual reporting requirements; providing for status reports in lieu of annual reports; deleting a requirement for the submission of a plan to the Commissioner of Education; repealing ss. 240.3575(5), 240.3815(1), 240.382(5), F.S., relating to annual reports of economic development centers, annual reports of community college campus crime statistics, and rules for the operation of child development training centers;

On motion by Senator Grant, further consideration of **HB 1545** with pending **Amendment 1** and **Amendment 1D** was deferred.

On motion by Senator Lee, by two-thirds vote **HB 1663** was withdrawn from the Committees on Education; and Ways and Means.

On motion by Senator Lee—

HB 1663—A bill to be entitled An act relating to interscholastic extracurricular student activities; amending s. 232.425, F.S., relating to student standards for participation in interscholastic extracurricular student activities; defining the term "extracurricular"; providing for the accessibility of such activities to home education students; providing an effective date.

—a companion measure, was substituted for **CS for SB 2228** and read the second time by title.

On motion by Senator Lee, further consideration of **HB 1663** was deferred.

CS for SB 1654—A bill to be entitled An act relating to nonpublic postsecondary institutions; amending s. 246.081, F.S.; conforming provisions; creating s. 246.084; establishing requirements for authorization; providing duties of the State Board of Independent Colleges and Universities; providing procedures for noncompliance; amending s. 246.101, F.S.; providing for an exemption from fees; creating a new workload fee; repealing s. 246.021(2), (7), and (10), F.S., relating to definitions; repealing s. 246.083, F.S., relating to authorization to operate; providing an effective date.

—was read the second time by title.

An amendment was considered to conform **CS for SB 1654** to **CS for HB 851**.

Pending further consideration of **CS for SB 1654** as amended, on motion by Senator Ostalkiewicz, by two-thirds vote **CS for HB 851** was withdrawn from the Committees on Education; and Ways and Means.

On motion by Senator Ostalkiewicz—

CS for HB 851—A bill to be entitled An act relating to nonpublic postsecondary institutions; amending s. 246.081, F.S.; conforming provisions; creating s. 246.084, F.S.; establishing requirements for authorization; providing duties of the State Board of Independent Colleges and Universities; providing procedures for noncompliance; amending s. 246.101, F.S.; providing for an exemption from fees; creating a new workload fee; repealing s. 246.021(2), (7), and (10), F.S., relating to definitions; repealing s. 246.083, F.S., relating to authorization to operate; authorizing continuance of certain programs; amending ss. 320.38 and 322.031, F.S.; correcting cross references; providing an effective date.

—a companion measure, was substituted for **CS for SB 1654** as amended and read the second time by title. On motion by Senator Ostalkiewicz, by two-thirds vote **CS for HB 851** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Dantzler	Horne	Ostalkiewicz
Bankhead	Diaz-Balart	Jenne	Rossin
Bronson	Dudley	Jones	Scott
Brown-Waite	Dyer	Kirkpatrick	Silver
Burt	Forman	Klein	Sullivan
Campbell	Grant	Kurth	Turner
Childers	Gutman	Latvala	Williams
Clary	Hargrett	Lee	
Cowin	Harris	McKay	
Crist	Holzendorf	Myers	

Nays—None

Vote after roll call:

Yea—Casas

CS for SB 1578—A bill to be entitled An act relating to charter schools; amending s. 228.056, F.S.; providing for the charter of a school-within-a-school; revising procedures for appeal to the State Board of Education; revising student eligibility criteria; revising reporting requirements; providing for waiver of certain statutes; providing for contracts for personnel services; revising leave procedures; providing for the distribution of funds; providing for the use of facilities and property of the sponsor; authorizing the Commissioner of Education to adopt rules; 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 Workforce Development Board of Enterprise Florida, Inc., 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 the resolution of complaints; providing for revocation of a charter; providing for rules; amending s. 121.021, F.S.; revising the definition of “covered group” within the Florida Retirement System to include charter technical institutes; amending s.

236.081, F.S.; providing for calculating changes in school district funding resulting from a drop in enrollment based on student transfers to a charter technical institute; providing an effective date.

—was read the second time by title.

An amendment was considered to conform **CS for SB 1578** to **CS for HB 539**.

Pending further consideration of **CS for SB 1578** as amended, on motion by Senator Grant, by two-thirds vote **CS for HB 539** was withdrawn from the Committees on Education; and Ways and Means.

On motion by Senator Grant, the rules were waived and—

CS for HB 539—A bill to be entitled An act relating to charter schools; amending s. 228.056, F.S.; revising provisions relating to proposals; providing additional application and denial of application requirements; revising appeal procedures in the case of denial of an application; revising enrollment and charter provisions; revising annual reporting requirements; authorizing waiver of statutes; revising provisions relating to employees; revising provisions relating to distribution of funds to charter schools; providing for use of facilities, property, goods, and services; providing requirements; providing an effective date.

—a companion measure, was substituted for **CS for SB 1578** as amended and read the second time by title. On motion by Senator Grant, by two-thirds vote **CS for HB 539** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Madam President	Cowin	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Grant	Klein	Sullivan
Casas	Gutman	Kurth	Thomas
Childers	Hargrett	Latvala	Turner
Clary	Harris	Lee	Williams

Nays—2

Forman Silver

Vote after roll call:

Yea—Crist, McKay

On motion by Senator Ostalkiewicz—

CS for CS for SB 1660—A bill to be entitled An act relating to taxation; amending ss. 203.01, 203.63, F.S., relating to the tax on gross receipts for utility services and the tax on interstate and international telecommunication services; providing clarification with respect to the separate statement of such taxes on bills or invoices; amending s. 212.02, F.S., relating to sales, use, and other transactions; defining the terms “self-propelled farm equipment,” “power-driven farm equipment,” and “power-driven farm equipment” for purposes of ch. 212, F.S.; amending s. 212.04, F.S.; exempting admissions to postseason collegiate football games from the tax on admissions; amending s. 212.05, F.S.; providing clarification with respect to the imposition of the tax on sales, use, and other transactions on telecommunication service; exempting transactions in excess of a specified amount from the tax on the sale of coins or currency; amending s. 212.0598, F.S.; establishing a sales tax exemption for certain businesses that create a large number of new jobs; providing a limitation on the exemption; providing an expiration date; amending s. 212.06, F.S.; authorizing the establishment of cost price amounts for industry groups; clarifying taxation of improvements to real property; amending s. 212.08, F.S., relating to sales, use, and other transactions; revising the sales tax exemption provided for food and drinks; providing definitions; revising application of the partial exemption for self-propelled or power-driven farm equipment; including power-driven farm equipment within such exemption; exempting the sale of steam energy used in manufacturing; revising the activities that constitute a manufacturing function for purposes of the sales tax exemption on certain uses of electricity; providing a threshold for electricity use; deleting a requirement that the electricity be separately metered; providing a sales tax

exemption for the sale of gold, silver, or platinum bullion in excess of a specified amount; providing a sales tax exemption for the sale or lease of certain aircraft used by a common carrier; providing a sales tax exemption for the repair and maintenance of certain commercial aircraft; providing for application of the sales tax when an advertising agency acts as an agent of its client; providing an exemption for the Gasparilla Distance Classic Association, Inc., in specified circumstances; providing an exemption for certain foods, drinks, and other items provided to customers on a complimentary basis by a dealer who sells food products at retail; providing an exemption for foods and beverages donated by such dealers to certain organizations; providing an exemption for certain complimentary meals; revising provisions relating to the technical assistance advisory committee established to provide advice in determining taxability of foods and medicines; providing membership requirements; directing the Department of Revenue to develop guidelines for such determination and providing requirements with respect thereto; providing for use of the guidelines by the committee; providing for determination of the taxability of specific products by the department; authorizing the department to develop a central database with respect thereto; amending s. 213.053, F.S.; authorizing the department to provide certain information to the Department of Labor and Employment Security; amending s. 213.21, F.S.; revising provisions which authorize the department to delegate to the executive director authority to approve a settlement or compromise of tax liability, to increase the limit on the amount of tax reduction with respect to which such delegation may be made; specifying a time period for which the department may settle and compromise tax and interest due when a taxpayer voluntarily self-discloses a tax liability and authorizing further settlement and compromise under certain circumstances; creating s. 213.285, F.S.; authorizing the department to initiate a certified audits project under which taxpayers may hire qualified practitioners to review and report on their tax compliance; providing definitions; providing requirements for participation by such practitioners and taxpayers; providing requirements for the conduct of certified audits; providing status of the audit report; amending s. 220.03, F.S.; updating references to the Internal Revenue Code for corporate income tax purposes; amending s. 220.15, F.S., relating to the apportionment of adjusted federal income under the Florida Income Tax Code; providing that the property factor fraction may not include real or tangible personal property that is dedicated to research and development activities conducted in conjunction with a state university; providing that the payroll factor fraction does not include compensation paid to any employee who is dedicated to such research and development activities; requiring certification of such activities and providing intent with respect thereto; requiring the Department of Revenue to adopt rules; amending s. 221.02, F.S.; extending the time for utilizing emergency excise tax credits for purposes of Florida corporate income tax; providing for emergency rules; providing legislative intent; providing effective dates.

—was read the second time by title.

Senator Ostalkiewicz moved the following amendments which were adopted:

Amendment 1 (with title amendment)—On page 28, between lines 21 and 22, insert:

- (5) EXEMPTIONS; ACCOUNT OF USE.—
- (b) Machinery and equipment used to increase productive output.—

1. Industrial machinery and equipment purchased for use in new businesses which manufacture, process, compound, or produce for sale, or for exclusive use in spaceport activities as defined in s. 212.02, items of tangible personal property at fixed locations are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2.a. Industrial machinery and equipment purchased for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale, or for exclusive use in spaceport activities as defined in s. 212.02, items of tangible personal property at fixed locations in this state are exempt from any amount of tax imposed by this chapter in excess of \$50,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that

such items are used to increase the productive output of such expanded business by not less than 10 percent.

b. *Notwithstanding any other provision of this section, industrial machinery and equipment purchased for use in expanding printing or publishing manufacturing facilities or plant units that manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state are exempt from any amount of tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded business by not less than 10 percent.*

3.a. To receive an exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph 2., the department shall issue such permit.

b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery and equipment pursuant to subparagraph 1. or subparagraph 2., the temporary tax permit shall be delivered to the department or returned to the department by certified or registered mail.

c. If, in a subsequent audit conducted by the department, it is determined that the machinery and equipment purchased as exempt under subparagraph 1. or subparagraph 2. did not meet the criteria mandated by this paragraph or if commencement of production did not occur, the amount of taxes exempted at the time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.

d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the department required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph 2. through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph 2. have been met and commencement of production has occurred.

4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery or equipment purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, ~~publishing firms that do not export at least 50 percent of their finished product out of the state,~~ any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, or any firm which does not manufacture, process, compound, or produce for sale, or for exclusive use in spaceport activities as defined in s. 212.02, items of tangible personal property.

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of the manufacturing, processing, compounding, or producing for sale, or for exclusive use in spaceport activities as defined in s. 212.02, of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period,

irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; provided, however, in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

7. Notwithstanding any other provision in this paragraph to the contrary, in order to receive the exemption provided in this paragraph a taxpayer must register with the WAGES Program Business Registry established by the local WAGES coalition for the area in which the taxpayer is located. Such registration establishes a commitment on the part of the taxpayer to hire WAGES program participants to the maximum extent possible consistent with the nature of their business.

And the title is amended as follows:

On page 2, line 6, after the semicolon (;) insert: providing a tax exemption for industrial machinery and equipment purchased for use in expanding certain printing or publishing facilities; removing a provision that prevents an exemption for industrial machinery and equipment purchased for use in new or expanding businesses from applying to certain publishing firms;

Amendment 2—On page 22, line 13, after the comma (,) insert: paragraph (b) of subsection (5),

Amendment 3 (with title amendment)—On page 33, lines 1-13, delete those lines and insert:

(uu) Sales involving schools.—There is exempt from the tax imposed under this part the sale or purchase of tangible personal property or services by a public, parochial, church, or nonprofit school operated for and attended by pupils of grades kindergarten through 12, or by a parent-teacher organization or parent-teacher association affiliated with a school, for the purpose of raising funds to support the school.

And the title is amended as follows:

On page 2, delete line 31 and insert: exemption for the sale or purchase of tangible personal property or services sold to raise funds for support of a school;

Amendment 4 (with title amendment)—On page 10, between lines 5 and 6, insert:

Section 5. Effective January 1, 1998, subsection (5) of section 212.04, Florida Statutes, 1996 Supplement, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(5) All of the provisions of this chapter relating to collection, investigation, discovery, and aids to collection of taxes upon sales of tangible personal property shall likewise apply to all privileges described or referred to in this section, and the obligations imposed in this chapter upon retailers are hereby imposed upon the seller of such admissions. When tickets or admissions are sold and not used but returned and credited by the seller, the seller may apply to the department for a credit allowance for such returned tickets or admissions if advance payments have been made by the buyer and have been returned by the seller, upon such form and in such manner as the department may from time to time prescribe. The department may, upon obtaining satisfactory proof of the refunds on the part of the seller, credit the seller for taxes paid upon admissions that have been returned unused to the purchaser of those admissions. The seller of admissions, upon the payment of the taxes before they become delinquent and the rendering of the returns in accordance with the requirement of the department and as provided in this law, shall be entitled to a discount of 2.5 percent of the amount of taxes upon the payment thereof before such taxes become delinquent, in the same manner as permitted the sellers of tangible personal property in this chapter. However, if the amount of the tax due and remitted to the department

for the reporting period exceeds \$1,400 \$1,200, no discount shall be allowed for all amounts in excess of \$1,400 \$1,200.

Section 6. Effective January 1, 1998, subsection (1) of section 212.12, Florida Statutes, 1996 Supplement, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner, and remitter (except dealers who make mail order sales) shall be allowed 2.5 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his or her report and paying the amount due by him or her; the department shall allow such deduction of 2.5 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him or her, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds \$1,400 \$1,200, no allowance shall be allowed for all amounts in excess of \$1,400 \$1,200. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no event shall the collection allowance negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.

(a) The collection allowance may not be granted, nor may any deduction be permitted, if the tax is delinquent at the time of payment.

(b) The Department of Revenue may reduce the collection allowance by 10 percent or \$50, whichever is less, if a taxpayer files an incomplete return.

1. An "incomplete return" is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return may not be readily accomplished.

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that transient rentals and agricultural equipment transactions be separately shown. For returns remitted on or after February 1, 1992, the department shall also require that sales made through vending machines as defined in s. 212.0515 be separately shown. For returns remitted on or after February 1, 1995, sales made through coin-operated amusement machines as defined by s. 212.02 and the number of machines operated must be separately shown on the return or on a form prescribed by the department. If a separate form is required, the same penalties for late filing, incomplete filing, or failure to file as provided for the sales tax return shall apply to said form.

(c) The collection allowance and other credits or deductions provided in this part shall be applied proportionally to any taxes or fees reported on the same documents used for the sales and use tax.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, line 16, after the semicolon (;) insert: amending ss. 212.04, 212.12, F.S.; increasing the maximum amount of sales and use tax remitted by a dealer to which the dealer's credit applies;

Amendment 5 (with title amendment)—On page 35, between lines 24 and 25, insert:

Section 10. Paragraph (j) is added to subsection (5) of section 212.08, Florida Statutes, 1996 Supplement, to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(j) *Machinery and equipment used in silicon technology production and research and development.*—

1. *Industrial machinery and equipment purchased for use in silicon technology facilities certified under subparagraph 5. to manufacture, process, compound, or produce silicon technology products for sale or for use by these facilities are exempt from the tax imposed by this chapter.*

2. *Machinery and equipment are exempt from the tax imposed by this chapter if purchased for use predominately in silicon wafer research and development activities in a silicon technology research and development facility certified under subparagraph 5.*

3. *The exemptions authorized in subparagraph 1. and subparagraph 2. accrue to the taxpayer through a refund of previously paid taxes. A refund may not be made unless the criteria mandated by subparagraph 1. or subparagraph 2. have been met and the business has been certified by the Office of Tourism, Trade, and Economic Development as authorized in this paragraph.*

4.a. *To be eligible to receive the exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to Enterprise Florida, Inc. The application shall be developed by the Office of Tourism, Trade, and Economic Development in consultation with Enterprise Florida, Inc.*

b. *Enterprise Florida, Inc., shall review each submitted application and information and determine whether or not the application is complete within 5 working days. Once an application is complete Enterprise Florida, Inc., shall, within 10 working days, evaluate the application and recommend approval or disapproval of the application to the Office of Tourism, Trade, and Economic Development.*

c. *Upon receipt of the application and recommendation from Enterprise Florida, Inc., the Office of Tourism, Trade, and Economic Development shall certify within 5 working days those applicants who are found to meet the requirements of this section and notify the applicant, Enterprise Florida, Inc., and the department of the certification. If the Office of Tourism, Trade, and Economic Development finds that the applicant does not meet the requirements of this section, it shall notify the applicant and Enterprise Florida, Inc., within 10 working days that the application for certification has been denied and the reasons for denial. The Office of Tourism, Trade, and Economic Development has final approval authority for certification under this section.*

5.a. *A business certified to receive this exemption may apply once each year for the refund of all eligible taxes paid during the previous calendar year. The refund shall be subject to a specific annual appropriation from the Legislature to the Office of Tourism, Trade, and Economic Development for the payment of such refunds.*

b. *The first claim submitted by a business may include all eligible expenditures made after the date the business was certified.*

c. *To apply for the annual refund, the business shall submit a refund claim to the Office of Tourism, Trade, and Economic Development, which claim indicates and documents the sales and use taxes paid on eligible machinery and equipment. The claim shall also indicate, for program evaluation purposes only, the average number of full-time equivalent*

employees at the facility over the preceding calendar year, the average wage and benefits paid to those employees over the preceding calendar year, and the total investment made in real and tangible personal property over the preceding calendar year or, for the first claim submitted, since the date of certification. The department shall assist the Office of Tourism, Trade, and Economic Development in evaluating and verifying information provided in the application for an annual refund.

d. *An application for refund must be submitted to the Office of Tourism, Trade, and Economic Development by February 15 of each year. In the event that the Legislature does not appropriate an amount sufficient to satisfy all refund applications received by the Office of Tourism, Trade, and Economic Development, the office shall, not later than April 15 of each year, determine the proportion of each refund claim which shall be paid by dividing the amount appropriated for tax refunds for the fiscal year by the total of refund claims received. The amount of each claim for a tax refund shall be multiplied by the resulting quotient. If, after the payment of all such refund claims, there are appropriated funds remaining, the office shall recalculate the proportion for each refund claim and adjust the amount of each claim accordingly.*

e. *The Office of Tourism, Trade, and Economic Development may use the information reported on the claims for evaluation purposes only and shall prepare an annual report on the exemption program and its cost and impact. The annual report for the preceding fiscal year shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by September 30 of each fiscal year. This report may be submitted in conjunction with the annual report required in s. 288.095(3)(c).*

6.a. *A business certified to receive this exemption may elect to designate one or more state universities or community colleges as recipients of up to 100 percent of the refund for which they may qualify. To receive the tax refund or portion of the tax refund, the institution must agree to match these funds so earned with equivalent cash, programs, services, or other in-kind support on a one-to-one basis in the pursuit of research and development projects as requested by the certified business. The rights to any patents, royalties, or real or intellectual property must be vested in the business unless otherwise agreed to by the business and the university or community college.*

7. *As used in this paragraph, the term:*

a. *"Predominately" means at least 50 percent of the time in qualifying research and development.*

b. *"Research and Development" means basic and applied research in the science or engineering, as well as the design, development, and testing of prototypes or processes of new or improved products. Research and development does not include market research, routine consumer product testing, sales research, research in the social sciences or psychology, non-technological activities, or technical services.*

c. *"Silicon technology products" means raw silicon wafers that are transformed into semiconductor memory or logic wafers, including wafers containing mixed memory and logic circuits; related assembly and test operations; active-matrix flat panel displays; semiconductor chips; and related silicon technology products as determined by the Office of Tourism, Trade, and Economic Development.*

Section 11. Section 288.095, Florida Statutes, 1996 Supplement, is amended to read:

288.095 Economic Development Trust Fund.—

(1) The Economic Development Trust Fund is created within the Office of Tourism, Trade, and Economic Development. Moneys deposited into the fund must be used only to support the authorized activities and operations of the office.

(2) There is created, within the Economic Development Trust Fund, the Economic Development Incentives Account. The Economic Development Incentives Account consists of moneys appropriated to the account for purposes of the tax incentives programs authorized under ss. 288.1045 ~~ss. 288.104~~ and 288.106, and local financial support provided under ss. 288.1045 ~~ss. 288.104~~ and 288.106. Moneys in the Economic Development Incentives Account shall be subject to the provisions of s. 216.301(1)(a).

(3)(a) Contingent upon an annual appropriation by the Legislature, the Office of Tourism, Trade, and Economic Development may approve ~~not more than the lesser of \$10 million in tax refunds pursuant to ss. 288.1045 ss. 288.104 and 288.106. The office may not approve tax refunds in excess of~~ the amount appropriated to the Economic Development Incentives Account for such tax refunds, for a fiscal year pursuant to paragraph (b).

(b) The total amount of tax refunds approved by the Office of Tourism, Trade, and Economic Development pursuant to ~~ss. 288.1045 ss. 288.104 and 288.106~~ shall not exceed the amount appropriated to the Economic Development Incentives Account for such purposes for the fiscal year. In the event the Legislature does not appropriate an amount sufficient to satisfy projections by the ~~office department~~ for tax refunds under ~~ss. 288.1045 ss. 288.104 and 288.106~~ in a fiscal year, the Office of Tourism, Trade, and Economic Development shall, not later than July 15 of such year, determine the proportion of each refund claim which shall be paid by dividing the amount appropriated for tax refunds for the fiscal year by the projected total of refund claims for the fiscal year. The amount of each claim for a tax refund shall be multiplied by the resulting quotient. If, after the payment of all such refund claims, funds remain in the Economic Development Incentives Account for tax refunds, the ~~office secretary~~ shall recalculate the proportion for each refund claim and adjust the amount of each claim accordingly.

(c) By September 30 of each year, the Office of Tourism, Trade, and Economic Development shall submit a complete and detailed report to the board of directors of Enterprise Florida, Inc., created under part VII of this chapter, of all applications received, final decisions issued, tax refund agreements executed, and tax refunds paid or other payments made under all programs funded out of the Economic Development Incentives Account, including analyses of benefits and costs, types of projects supported, and employment and investment created. The Office of Tourism, Trade, and Economic Development shall also include a separate analysis of the impact of such tax refunds on state enterprise zones designated pursuant to s. 290.0065, ~~including the finding required by s. 288.106(4)(e)2.~~ By December 1 of each year, the board of directors of Enterprise Florida, Inc., shall review and comment on the report, and the board shall submit the report, together with the comments of the board, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must discuss whether the authority and moneys appropriated by the Legislature to the Economic Development Incentives Account were managed and expended in a prudent, fiducially sound manner.

(d) Moneys in the Economic Development Incentives Account may be used only to pay tax refunds and other payments authorized under ~~s. 288.1045 s. 288.104~~ or s. 288.106.

(e) The Office of Tourism, Trade, and Economic Development may adopt rules necessary to carry out the provisions of this subsection, including rules providing for the use of moneys in the Economic Development Incentives Account and for the administration of the Economic Development Incentives Account.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 3, line 16, after the first semicolon (;) insert: amending s. 212.08, F.S.; providing an exemption from the sales and use tax for certain machinery and equipment; amending s. 288.095, F.S.; revising provisions relating to tax refunds made from the Economic Development Trust Fund;

Amendment 6 (with title amendment)—On page 28, between lines 22 and 23, insert:

(ff) Aircraft repair and maintenance labor charges.—There shall be exempt from the tax imposed by this part all labor charges for the repair and maintenance of aircraft or more than 20,000 pounds maximum certified takeoff weight. *Except as otherwise provided in this chapter,* charges for parts and equipment furnished in connection with such labor charges are taxable.

And the title is amended as follows:

On page 2, line 7, after the semicolon (;) insert: providing an exception to the exemption for aircraft repair and maintenance labor charges;

Amendment 7—On page 22, line 13, delete “paragraph (ii)” and insert: paragraphs (ff) and (ii)

Amendment 8—On page 17, lines 11-13, delete those lines and insert:

(b) *The exemption pursuant to this subsection may only be taken by refund and may not exceed \$1 million per*

Amendment 9 (with title amendment)—On page 46, between lines 14 and 15, insert:

Section 18. Section 196.198, Florida Statutes, is amended to read:

196.198 Educational property exemption.—Educational institutions within this state and their property used by them or by any other exempt entity or educational institution exclusively for educational purposes shall be exempt from taxation. Sheltered workshops providing rehabilitation and retraining of disabled individuals and exempted by a certificate under s. (d) of the federal Fair Labor Standards Act of 1938, as amended, are declared wholly educational in purpose and shall be exempted from certification, accreditation, and membership requirements set forth in s. 196.012. Those portions of property of college fraternities and sororities certified by the president of the college or university to the appropriate property appraiser as being essential to the educational process, shall be exempt from ad valorem taxation. The use of property by public fairs and expositions chartered by chapter 616 is presumed to be an educational use of such property and shall be exempt from ad valorem taxation to the extent of such use. Property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the educational institution is owned by the identical persons who own the property. *If the title to land is held by the trustee of an irrevocable inter vivos trust and if the trust grantor is 100 percent owner of the corporation which operates the educational institution, then the property shall be deemed owned by the educational institution.* Property owned by an educational institution shall be deemed to be used for an educational purpose if the institution has taken affirmative steps to prepare the property for educational use. Affirmative steps means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate commitment of the property to an educational use.

(Renumber subsequent section.)

And the title is amended as follows:

On page 4, line 27, after the semicolon (;) insert: amending s. 196.198, F.S.; specifying conditions under which property is deemed owned by an educational institution for purposes of ad valorem tax exemption;

Senators Childers and Thomas offered the following amendment which was moved by Senator Thomas and failed:

Amendment 10 (with title amendment)—On page 4, between lines 2 and 3, insert:

Section 2. Subsection (1) of section 201.09, Florida Statutes, 1996 Supplement, as amended by chapter 96-395, Laws of Florida, is amended to read:

201.09 Renewal of existing promissory notes and mortgages; exemption.—

(1) When any promissory note is given in renewal of any existing promissory note, which renewal note only extends or continues the identical contractual obligations of the original promissory note and evidences part or all of the original indebtedness evidenced thereby, not including any accumulated interest thereon and without enlargement in any way of the original contract and obligation, such renewal note shall not be subject to taxation under this chapter if such renewal note has attached to it the original promissory note with the proper notation thereon as required by s. 201.133. In order to be exempt from taxation under this section, a renewal note *evidencing a term obligation* shall not be executed by any person other than the original obligor and must renew and extend only the unpaid balance of the original contract and obligation. *In order to be exempt from taxation under this section, a renewal note evidencing a revolving obligation shall not be executed by*

any person other than the original obligor and must renew and extend no more than the original face amount of the original contract and obligation.

Section 3. Section 2 of this act applies to any renewal note evidencing a revolving obligation dated after January 1, 1990, and the tax under section 201.09, Florida Statutes, remained unpaid on April 1, 1997.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 7, after the semicolon (;) insert: amending s. 201.09, F.S.; specifying conditions under which a renewal note evidencing a revolving obligation is exempt from said tax; providing for application of act to certain renewal notes evidencing a revolving obligation;

Senator Forman moved the following amendment which failed:

Amendment 11 (with title amendment)—On page 33, between lines 13 and 14, insert:

(vv) *There shall be an exemption from the sales tax imposed by this chapter on the initial purchase of rolling stock purchased outside of this state by a Florida corporation providing passenger rail service within this state. This exemption shall not exceed \$600,000 and stand repealed on December 31, 1998.*

And the title is amended as follows:

On page 2, line 10, after the semicolon (;) insert: providing an exemption for the initial purchase of certain rolling stock;

Pursuant to Rule 4.19, **CS for CS for SB 1660** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

MOTION

On motion by Senator Bankhead, the rules were waived and time of recess was extended until 12:10 p.m. or until consideration of **SB 1648**.

On motion by Senator Horne—

SB 1830—A bill to be entitled An act relating to evidence; amending s. 90.803, F.S.; providing additional exceptions to the prohibition against hearsay evidence; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 1, lines 17-30 and on page 2, lines 1-13, delete those lines and insert:

Section 1. Subsection (22) of section 90.803, Florida Statutes, 1996 Supplement, is amended to read:

90.803 Hearsay exceptions; availability of declarant immaterial.—The provision of s. 90.802 to the contrary notwithstanding, the following are not inadmissible as evidence, even though the declarant is available as a witness:

(22) **FORMER TESTIMONY.**—Former testimony given by the declarant which testimony was given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination. ~~at a civil trial, when used in a retrial of said trial involving identical parties and the same facts.~~

Section 2. This act shall take effect July 1, 1997 and shall apply to pending cases in which the final pretrial conference occurs on or after that date.

Senator Horne moved the following amendment to **Amendment 1**:

Amendment 1A—On page 1, line 31, after “*interest*” insert: , or a person with a similar interest,

On motion by Senator Horne, further consideration of **SB 1830** with pending **Amendment 1** and **Amendment 1A** was deferred.

On motion by Senator Rossin, the rules were waived and the Senate reverted to—

CONSIDERATION OF BILLS ON THIRD READING

The Senate resumed consideration of—

SB 1648—A bill to be entitled An act relating to public television and radio; prohibiting a public television or radio station funded by the state from merging with or allowing the use of its facilities by a private non-profit institution of higher learning; providing an effective date.

—which was previously considered this day. Pending **Amendment 1** by Senator Rossin was withdrawn.

Senator Rossin moved the following amendment:

Amendment 2 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsection (3) is added to section 235.40, Florida Statutes, to read:

235.40 Radio and television facilities.—

(3) *In fiscal year 1997-1998, state funding associated with Public Broadcasting Grants and Aids, General Appropriations Act, for South Florida Telecommunications, Inc. (WXEL-TV/FM, Channel 42), must be used to establish participation by the public consortium (which includes Florida Atlantic University) in the purchase of South Florida Telecommunications, Inc. (WXEL-TV/FM).*

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to public television and radio; providing for redirection of funds allocated for fiscal year 1997-1998 to South Florida Telecommunications, Inc.; providing an effective date.

On motion by Senator Rossin, further consideration of **SB 1648** with pending **Amendment 2** was deferred.

RECESS

On motion by Senator Bankhead, the Senate recessed at 12:12 p.m. to reconvene at 1:45 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:06 p.m. A quorum present—40:

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

On motion by Senator Horne, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB's 1688, 792, 1334 and 2254, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB's 1688, 792, 1334 and 2254—A bill to be entitled An act relating to workforce development education; requiring the Postsecondary Education Planning Commission to oversee implementation activities; requiring components of the implementation process; providing for a reporting system, program and curriculum design, cost study, staff development, and administrative procedures; providing for staff support; amending ss. 20.15, 215.16, F.S.; changing the names and responsibilities of the Division of Public Schools and the Division of Applied Technology and Adult Education within the Department of Education; amending s. 228.041, F.S.; amending the definition of "career education"; amending ss. 231.614, 233.056, 233.0561, 235.15, 235.199, 235.435, F.S.; conforming provisions; amending s. 236.081, F.S.; deleting responsibilities for funding of vocational education and adult education from the Florida Education Finance Program; conforming provisions; requiring a school district to pay certain costs for high school students enrolled in community college adult education programs; amending s. 237.34, F.S.; changing certain reporting responsibilities; conforming provisions; amending s. 239.105, F.S.; amending definitions to conform; removing certain programs from the category of adult general education; conforming provisions; amending s. 239.113, F.S.; conforming provisions; creating s. 239.115, F.S.; creating the workforce development fund; providing definitions; authorizing funding for a program for disabled adults; requiring cost categories, output measures, and outcome measures; providing for certain student fees; providing state funding entitlements for workforce development program categories; delaying the implementation date for the workforce development performance based funding formula; amending s. 239.117, F.S.; conforming provisions; amending certain requirements regarding fee schedules for workforce development education; authorizing a higher fee for certain courses within a program; amending s. 239.201, F.S.; deleting a requirement for delivery of certain programs; conforming provisions; amending s. 239.229, F.S.; deleting a requirement regarding supplemental vocational programs; conforming provisions; amending s. 239.249, F.S.; conforming provisions; amending s. 239.301, F.S.; deleting restrictions on the authority to provide certain programs; changing the funding category for college preparatory instruction; conforming provisions; amending ss. 240.118, 240.147, F.S.; conforming provisions; amending s. 240.301, F.S.; amending the mission of community colleges; deleting restrictions; conforming provisions; amending s. 240.345, F.S.; revising certain requirements for fund sources; amending s. 240.35, F.S.; revising requirements for student fees at community colleges to conform; amending s. 240.359, F.S.; conforming provisions relating to fund sources; amending ss. 240.61, 242.3305, 242.331, 242.337; 288.047, 446.011, 446.041, 446.052, 616.21, F.S.; conforming provisions; repealing s. 229.8075(3), F.S., relating to a reporting requirement of the Florida Education and Training Placement Information Program; repealing s. 239.109, F.S., relating to interinstitutional articulation agreements; repealing sections 15 and 16 of ch. 94-232, Laws of Florida, relating to a direction to the Division of Statutory Revision to change certain terms relating to vocational education; providing an effective date.

House Amendment 1 (with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. *The Commissioner of Education is hereby directed to convene a Task Force on Workforce Development to investigate issues associated with postsecondary education's role in Florida's job training, WAGES, and workforce development activities.*

(1) *The task force shall consist of two members of the House of Representatives appointed by the Speaker of the House of Representatives, two members of the Senate appointed by the President of the Senate, one representative from the state workforce development board, one representative from the state WAGES board, six representatives from public school districts representing two small, two medium, and two large school districts, six representatives from the community colleges, the executive director, or a designee of the executive director, of the Postsecondary*

Education Planning Commission, the director, or a designee of the director, of Workforce Education and Outcome Information Services of the Department of Education, and the director of the Division of Workforce Development of the Department of Education. The task force shall investigate, evaluate, and make recommendations regarding market-driven performance based measures and outcomes and implementation of such to ensure that public education institutions shall offer mutually beneficial adult education and vocational programs and courses.

(2) *The study must include the assignment of appropriate funding mechanisms and weighting schemes, the identification of key elements of productivity for funding, and simulations of funding designs. Recommendations must be consistent with the performance measurement requirements and the elements of productivity in the Workforce Florida Act of 1996. Necessary components in the study include:*

(a) *Assessing and recommending to the Legislature a design for a unified student data reporting system for the workforce development education system, including hardware, software, and protocol aspects within resources provided in the General Appropriations Act. The design must include new data analysis reports to analyze program performance, allow for program review, and determine how to allocate funds. For purposes of this section, a unified data base means that the same system provides information for both school districts and community colleges, with common definitions and reporting formats and sequences. The task force may contract for system design services, as authorized in the appropriations act.*

(b) *Recommending modifications to curriculum frameworks to facilitate articulation and to guarantee maximum appropriate transferability of coursework. The modifications must assure a uniform system of courses and common course numbers, created by redefining postsecondary vocational programs. In cooperation with the Articulation Coordinating Committee, the task force shall develop standards for institutions that wish to award college credit for vocational instruction. These standards must address issues related to accreditation and admission of students.*

(c) *Providing a detailed vocational and adult general education program cost study to determine relative costs of the vocational and adult general programs in the community college and school district delivery systems.*

(d) *Conducting a program of staff development to disseminate information about changes and developments to staff of school districts, community colleges, the Department of Education, and the Legislature.*

(e) *Recommending administrative procedures and mechanisms to pay out, track, and account for funds assigned to the Workforce Education Development Fund as created in the General Appropriations Act. These procedures must include reports of expenditures, costs, disbursements, and audits.*

(f) *Recommending revised definitions, including, but not limited to, adult education, vocational education, career education, certificate programs, degree programs, supplemental vocational education, workforce development education, occupational completion point, and workforce development programs.*

(g) *Assessing the merits of supplemental vocational education and its impact on students, business, and industry.*

(h) *Recommending student fee structures for adult and vocational programs provided by the community college and public school systems.*

(i) *Recommending implementation procedures for adult and vocational education programs in conjunction with the repeal of the interinstitutional articulation agreements pursuant to s. 239.109, Florida Statutes.*

(j) *Assessing the feasibility of the consolidation of existing performance-based funding programs.*

(3) *By January 1, 1998, the task force shall submit to the Legislature and the Governor recommendations in a report containing:*

(a) *The products that implement the components described in subsection (2).*

(b) A description of activities in process and due dates for any other activities necessary to implement a proposed performance-based funding formula for workforce development in time for full implementation by July 1, 1998.

(c) An identification of any additional action that would facilitate the effective and timely implementation of proposed recommendations.

(4) The Department of Education, the State Board of Community Colleges, the 28 community colleges, and the 67 school districts shall provide staff assistance and resources to assist the task force in preparing recommendations.

Section 2. Paragraph (a) of subsection (2) and paragraphs (a), (b), and (c) of subsection (4) of section 20.15, Florida Statutes, are amended, and subsection (7) is added to said section, to read:

20.15 Department of Education.—There is created a Department of Education.

(2)(a) The following divisions of the Department of Education are established:

1. Division of Community Colleges.
2. Division of Public Schools and Community Education.
3. Division of Universities.
4. Division of Workforce Development ~~Applied Technology and Adult Education~~.
5. Division of Human Resource Development.

(4) The State Board of Education and the Commissioner of Education:

(a) Shall assign to the Division of Public Schools and Community Education such powers, duties, responsibilities, and functions as are necessary to ensure the greatest possible coordination, efficiency, and effectiveness of education for students in prekindergarten through 12th grade, for secondary school vocational education, and for community education ~~kindergarten through 12th grade education~~.

(b) Shall assign to the Division of Workforce Development ~~Applied Technology and Adult Education~~ such powers, duties, responsibilities, and functions as are necessary to ensure the greatest possible coordination, efficiency, and effectiveness of workforce development ~~career and continuing~~ education.

(c) Shall assign to the State Board of Community Colleges such powers, duties, responsibilities, and functions as are necessary to ensure the coordination, efficiency, and effectiveness of community colleges, except those duties specifically assigned to the Commissioner of Education in ss. 229.512 and 229.551, and the duties concerning physical facilities in chapter 235, and the duties assigned to the Division of Workforce Development in chapter 239.

(7) The Commissioner of Education, in cooperation with the Executive Director of the State Board of Community Colleges and the Director of the Division of Workforce Development, shall create an Office of Workforce Development Funding, to be administratively housed within the Division of Workforce Development. The office shall report through a commission composed of the Commissioner of Education, the Executive Director of the State Board of Community Colleges, the Executive Director of the Postsecondary Education Planning Commission, the Director of Workforce Education and Outcome Information Services of the Department of Education, and the President of the Jobs and Education Partnership. The Office of Workforce Development Funding shall have responsibility for administration of the Workforce Development Fund as established in the General Appropriations Act, based on recommendations of the Task Force on Workforce Development.

Section 3. Subsection (2) of section 215.16, Florida Statutes, is amended to read:

215.16 Appropriations from General Revenue Fund for public schools, state institutions of higher learning, and community colleges; reduction.—

(2) If the state appropriations from the General Revenue Fund for the benefit of the uniform system of public free schools, state institutions of higher learning, and community colleges cannot be paid in full during any given year, they shall be diminished only in the same proportion that appropriations for all other purposes from the General Revenue Fund are diminished during such year. Additionally, any funding reductions to public free schools, state institutions of higher learning, and community colleges shall be diminished in proportions identical to one another. For the purpose of implementing this section, general revenue funds provided for public free schools, state institutions of higher learning, and community colleges shall be restricted to general revenue funds appropriated for the Division of Public Schools and Community Education, the Division of Workforce Development, the Division of Universities, excluding the general office of the Board of Regents, and the Division of Community Colleges, excluding the division office.

Section 4. Paragraph (a) of subsection (2) of section 231.614, Florida Statutes, is amended to read:

231.614 Inservice master plan for vocational educators; task force.—

(2)(a) The department shall coordinate the delivery of inservice education for vocational educators employed in school districts and community colleges in conjunction with the state universities, community colleges, and teacher education centers. A vocational inservice education task force shall be established for the purposes of this subsection. Such task force shall consist of 15 members who are jointly appointed by the Director of the Division of Workforce Development ~~Applied Technology and Adult Education~~ and the Director of the Division of Community Colleges. Membership on the task force shall consist of:

1. The Director of the Division of Workforce Development ~~Applied Technology and Adult Education~~, or the director's designee.
2. The Director of the Division of Community Colleges, or the director's designee.
3. A vocational educator employed in a school district.
4. A vocational educator employed in a community college.
5. An adult educator employed in a school district.
6. An adult educator employed in a community college.
7. A teacher education center director.
8. A community college employee responsible for staff development.
9. A state university career education teacher educator.
10. A state university adult education teacher educator.
11. Five representatives of business and industry.

Section 5. Section 233.056, Florida Statutes, is amended to read:

233.056 Instructional programs for visually impaired students and deaf or hard-of-hearing students.—

(1) The Division of Public Schools and Community Education of the Department of Education is authorized to establish a coordinating unit and instructional materials center for visually impaired children and youth and deaf or hard-of-hearing children and youth to provide staff and resources for the coordination, cataloging, standardizing, producing, procuring, storing, and distributing of braille, large print, tangible apparatus, captioned films and video tapes, and other specialized educational materials needed by these students and other exceptional students. The coordinating unit shall have as its major purpose the improvement of instructional programs for visually impaired students and deaf or hard-of-hearing students and may, as a second priority, extend appropriate services to other exceptional students, consistent with provisions and criteria established, to the extent that resources are available.

(2) The unit shall be operated either directly by the Division of Public Schools and Community Education or through a contractual agreement with a local education agency, under rules adopted by the State Board of Education.

Section 6. Subsection (1) of section 235.15, Florida Statutes, is amended to read:

235.15 Educational plant survey; PECO project funding.—

(1) At least every 5 years, each board, including the Board of Regents, shall arrange for an educational plant survey, to aid in formulating plans for housing the educational program and student population, faculty, administrators, staff, and auxiliary and ancillary services of the district or campus, including consideration of the local comprehensive plan. Before educational plant survey of a school district or community college that delivers career or adult education programs, the Division of ~~Workforce Development Applied Technology and Adult Education~~ shall establish documentation of the need for additional career and adult education programs and the continuation of existing programs before facility construction or renovation related to career or adult education may be included in the education plant survey. Information used by the Division of ~~Workforce Development Applied Technology and Adult Education~~ to establish facility needs must include, but need not be limited to, labor market data, needs analysis, and information submitted by the school district or community college. Each survey shall be conducted by the board or an agency employed by the board. Surveys shall be reviewed and approved by the board, and a file copy shall be submitted to the commissioner. The survey report shall include at least an inventory of existing educational and ancillary plants; recommendations for existing educational and ancillary plants; recommendations for new educational or ancillary plants, including the general location of each in coordination with the land use plan; campus master plan update and detail for community colleges; the utilization of school plants based on an extended school day or year-round operation; and such other information as may be required by the rules of the State Board of Education. This report may be amended, if conditions warrant, at the request of the board or commissioner. Relocatables shall be included in the school district inventory of facilities and must be rated at 100 percent of actual student capacity for purposes of the inventory. For future needs determination, relocatables shall not be counted. However, an adjustment shall be made for deficiencies in core space because of the use of portables. When required by the State Constitution, the department shall review the surveys and any amendments thereto for compliance with the requirements of this chapter and shall recommend those in compliance for approval by the State Board of Education.

Section 7. Paragraphs (c), (d), and (f) of subsection (1) and subsection (2) of section 235.199, Florida Statutes, are amended to read:

235.199 Cooperative funding of vocational educational facilities.—

(1) Each district school board operating a designated area technical center may submit, prior to August 1 of each year, a request to the commissioner for funds from the Public Education Capital Outlay and Debt Service Trust Fund to plan, construct, and equip a career educational facility identified as being critical to the economic development and the workforce needs of the school district. Prior to submitting a request, each school district shall:

(c) Certify to the Division of ~~Workforce Development Applied Technology and Adult Education~~ that the project has been survey recommended.

(d) Certify to the Division of ~~Workforce Development Applied Technology and Adult Education~~ that final phase III construction documents comply with applicable building codes and life safety codes.

(f) If a construction contract has not been signed 90 days after the advertising of bids, certify to the Division of ~~Workforce Development Applied Technology and Adult Education~~ and the department the cause for delay. Upon request, an additional 90 days may be granted by the commissioner.

(2) The Division of ~~Workforce Development Applied Technology and Adult Education~~ shall establish the need for additional career education programs and the continuation of existing programs before facility construction or renovation related to career education can be included in the educational plant survey. Information used by the Division of ~~Workforce Development Applied Technology and Adult Education~~ to establish facility needs shall include, but not be limited to, labor market needs analysis and information submitted by the school districts.

Section 8. Paragraph (a) of subsection (3) of section 235.435, Florida Statutes, is amended to read:

235.435 Funds for comprehensive educational plant needs.—Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(3)(a) Each district school board shall receive an amount from the Public Education Capital Outlay and Debt Service Trust Fund to be calculated by computing the capital outlay full-time equivalent membership as determined by the department. Such membership must include, but is not limited to:

1. K-12 students, except hospital and homebound part-time students; and

2. Students who are certificate career education students, adult supplemental vocational students, adult basic students, adult secondary students, and adult disabled students and who are enrolled in ~~school district technical adult career or adult general education~~ centers. The capital outlay full-time equivalent membership shall be determined for kindergarten through the 12th grade and for vocational-technical centers by averaging the unweighted full-time equivalent student membership for the second and third surveys and comparing the results on a school-by-school basis with the Florida Inventory for School Houses. The capital outlay full-time equivalent membership by grade level organization shall be used in making the following calculations: The capital outlay full-time equivalent membership by grade level organization for the 1981-1982 fiscal year shall be computed as the base year. The capital outlay full-time equivalent membership by grade level organization for the 1984-1985 fiscal year shall be computed with the positive increase over the base year constituting growth. From the total amount appropriated by the Legislature pursuant to this subsection, 40 percent shall be allocated among the base capital outlay full-time equivalent membership and 60 percent among the growth capital outlay full-time equivalent membership. The allocation within each of these groups shall be prorated to the districts based upon each district's percentage of base and growth capital outlay full-time membership. The most recent 4-year capital outlay full-time equivalent membership data shall be used in each subsequent year's calculation for the allocation of funds pursuant to this subsection. If the growth capital outlay full-time equivalent membership for a district declines in any year used in their calculation after the initial allocation pursuant to this subsection, no allocation for growth capital outlay full-time equivalent membership shall be made for any subsequent year until the number of capital outlay full-time equivalent membership has exceeded the number for which an allocation has already been made. If a change, correction, or recomputation of data during any year results in a reduction or increase of the calculated amount previously allocated to a district, the allocation to that district shall be adjusted correspondingly. If such recomputation results in an increase or decrease of the calculated amount, such additional or reduced amounts shall be added to or reduced from the district's future appropriations. However, no change, correction, or recomputation of data shall be made subsequent to 2 years following the initial annual allocation.

Section 9. Section 239.117, Florida Statutes, 1996 Supplement, is amended to read:

239.117 Postsecondary student fees.—

(1) This section applies to students enrolled in adult basic, adult secondary, vocational-preparatory, college-preparatory, lifelong learning, certificate career education, community education, supplemental vocational, or other adult general education programs who are reported for funding through the Florida Education Finance Program or Community College Program Fund.

(2) All students shall be charged fees except students who are exempt from fees or students whose fees are waived.

(3)(2) The following students are exempt from any requirement for the payment of registration, matriculation, and laboratory fees for *adult basic, adult secondary, or vocational preparatory* instruction:

(a) A student who does not have a high school diploma or its equivalent and who is enrolled in ~~adult basic, adult secondary, or vocational preparatory~~ instruction.

(b) A student who has a high school diploma or its equivalent, ~~who is enrolled in adult basic, adult secondary, or vocational preparatory instruction, and who has academic skills at or below the eighth grade level pursuant to state board rule. A student is eligible for this exemption from fees if the student's skills are at or below the eighth grade level as measured by a test administered in the English language and approved by the Department of Education, even if the student has skills above that level when tested in the student's native language.~~

(4) *The following students are exempt from the payment of registration, matriculation, and laboratory fees:*

~~(a)(e) A student enrolled in a dual enrollment or early admission program pursuant to s. 239.241. Fee exempt instruction provided at community colleges pursuant to this subsection generates an additional one-fourth of a full-time equivalent enrollment.~~

~~(b)(d) A student enrolled in an approved apprenticeship program, as defined in s. 446.021.~~

~~(c)(e) A student for whom the state is paying a foster care board payment pursuant to s. 409.145(3) or pursuant to parts III and V of chapter 39 for whom the permanency planning goal pursuant to part V of chapter 39 is long-term foster care or independent living. Such exemption includes fees associated with enrollment in college-preparatory instruction and completion of the college-level communication and computation skills testing program.~~

~~(d)(f) A student enrolled in an employment and training program under the WAGES Program. Such a student may receive a fee exemption only if the student applies for and does not receive student financial aid, including Job Training Partnership Act or Family Support Act funds. Schools and community colleges shall help such students apply for financial aid, but may not deny such students program participation during the financial aid application process. Such a student may not be required to incur debt within the financial aid package. Fee exempt instruction provided at community colleges pursuant to this subsection generates an additional one-fourth of a full-time equivalent enrollment.~~

~~(e)(g) A student who lacks a fixed, regular, and adequate nighttime residence or whose primary nighttime residence is a public or private shelter designed to provide temporary residence for individuals intended to be institutionalized, or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.~~

~~(5)(3) Fees shall be charged for students not exempted from the payment of fees in this section. School districts and community colleges may waive fees for any fee-nonexempt student. The total value of fee waivers granted by the school district or community college may not exceed the amount established annually in the General Appropriations Act. Any student whose fees are waived in excess of the authorized amount may shall not be reported included in calculations of full-time equivalent enrollments for state funding purposes. Any school district or community college that waives fees and requests state funding for a student in violation of the provisions of this section shall be penalized at a rate equal to 2 times the value of the full-time student enrollment reported. Such penalty shall be charged against the following year's allocation from the Florida Education Finance Program or the Community College Program Fund.~~

~~(6)(4)(a) The Commissioner of Education shall recommend to the State Board of Education no later than December 31 of each year a schedule of fees for certificate career education, lifelong learning, and supplemental vocational courses and programs conducted by district school boards. The fee schedule shall be based on the amount of student fees necessary to produce 10 percent of the prior year's cost of certificate career education and vocational preparatory programs and 25 percent of the prior year's cost of supplemental vocational programs. The fee schedule for lifelong learning programs shall be based on student fees and nonstate funds necessary to produce 50 percent of the prior year's cost of lifelong learning programs. State funds may not exceed 50 percent of the prior year's cost of lifelong learning programs. The recommended annual increase in fees may not exceed 10 percent for students who are residents for tuition purposes. Fees for students who are not residents for tuition purposes must offset the full cost of instruction.~~

~~(b) The State Board of Education shall adopt a fee schedule for school districts that produces the fee revenues calculated pursuant to paragraph (a). The schedule so calculated shall take effect, unless otherwise~~

specified in the General Appropriations Act. If the Legislature enacts a calculation different than that adopted by the state board, the state board shall adopt a fee schedule that generates the same revenues as the calculation contained in the General Appropriations Act.

(c) The State Board of Education shall adopt, by rule, the definitions and procedures that school boards shall use in the calculation of cost borne by students. Such rule must define the cost of educational programs as the product of the base student allocation times the program cost factor times the full-time equivalent enrollment in the programs. The rule shall be developed in consultation with the Legislature.

~~(7)(5)(a) Each year the State Board of Community Colleges shall review and evaluate the percentage of the cost of adult programs and certificate career education programs supported through student fees. If this review indicates that student fees generate less than the percentage targeted for the program, the State Board of Community Colleges shall adopt a schedule of fee increases by December 31 for the following fall semester. For students who are residents for tuition purposes, the schedule so adopted must produce revenues equal to 25 percent of the prior year's program cost for college-preparatory and supplemental vocational programs and 10 percent of the prior year's program cost for certificate career education and vocational preparatory programs. The fee schedule for lifelong learning programs shall be based on student fees and nonstate funds necessary to produce 50 percent of the prior year's cost of lifelong learning programs. State funds may not exceed 50 percent of the prior year's cost of lifelong learning programs. The state board may not increase fees more than 10 percent for students who are residents for tuition purposes. Unless otherwise specified in the General Appropriations Act, the fee schedule shall take effect and the college shall expend student fees on instruction. If the Legislature enacts a calculation different than that adopted by the state board, the state board shall adopt a fee schedule that generates the same revenues as the calculation contained in the General Appropriations Act. Each community college board of trustees shall establish matriculation, tuition, and noncredit fees that may vary no more than 10 percent from the schedule approved by the State Board of Education. Fees for students who are not residents for tuition purposes must offset the full cost of instruction.~~

~~(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 certificate career education 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.~~

~~(8)(6) Total fees collected annually for recreation and leisure courses must be at least equal to the full cost of providing such programs by a school district or community college. Fees collected in excess of the total cost of the recreation and leisure program may be transferred to other instructional programs.~~

~~(9)(7) Each school board and community college board of trustees may collect, for financial aid purposes, up to an additional 5 percent of the student fees collected for certificate career education and supplemental vocational courses and programs. All fees collected shall be deposited into the student financial aid fee trust fund of the district or community college. Of the fees collected annually, a minimum of 25 percent shall be invested pursuant to the provisions of s. 18.125. Any undisbursed balance remaining in the trust fund and interest income accruing to investments from the trust fund shall increase the total funds available for distribution to certificate career education and supplemental vocational students. Awards shall be based on student financial need and distributed in accordance with a nationally recognized system of need analysis approved by the State Board for Career Education. Fees collected pursuant to this subsection shall be allocated in an expeditious manner.~~

~~(10)(8) A district school board or a districts and community college board of trustees colleges may charge other fees only as authorized by rule of the State Board of Education or the State Board of Community Colleges.~~

(11)(9) The State Board of Education and the State Board of Community Colleges shall adopt rules to allow the deferral of registration and tuition fees for students receiving financial aid from a federal or state assistance program when such aid is delayed in being transmitted to the student through circumstances beyond the control of the student. The failure to make timely application for such aid is an insufficient reason to receive a deferral of fees. The rules must provide for the enforcement and collection or other settlement of delinquent accounts.

(12)(10) Any veteran or other eligible student who receives benefits under chapter 30, chapter 31, chapter 32, chapter 34, or chapter 35 of Title 38, U.S.C., or chapter 106 of Title 10, U.S.C., is entitled to one deferment each academic year and an additional deferment each time there is a delay in the receipt of benefits.

(13)(11) Each school district and community college shall be responsible for collecting all deferred fees. If a school district or community college has not collected a deferred fee, the student may not earn *state funding full-time equivalent enrollment* for any course for which the student subsequently registers until the fee has been paid.

(14)(12) Any school district or community college that reports students who have not paid fees in an approved manner in calculations of full-time equivalent enrollments for state funding purposes shall be penalized at a rate equal to 2 times the value of such enrollments. Such penalty shall be charged against the following year's allocation from the Florida Education Finance Program or the Community College Program Fund and shall revert to the General Revenue Fund. The State Board of Education shall specify, in rule, approved methods of student fee payment. Such methods must include, but need not be limited to, student fee payment; payment through federal, state, or institutional financial aid; and employer fee payments.

(15)(13) Each school district and community college shall report only those students who have actually enrolled in instruction provided or supervised by instructional personnel under contract with the district or community college in calculations of actual full-time enrollments for state funding purposes. A student who has been exempted from taking a course or who has been granted academic or vocational credit through means other than actual coursework completed at the granting institution may not be calculated for enrollment in the course from which the student has been exempted or for which the student has been granted credit. School districts and community colleges that report enrollments in violation of this subsection shall be penalized at a rate equal to 2 times the value of such enrollments. Such penalty shall be charged against the following year's allocation from the Florida Education Finance Program or the Community College Program Fund and shall revert to the General Revenue Fund.

(16)(14) School boards and community college boards of trustees may establish scholarship funds using donations. If such funds are established, school boards and community college boards of trustees shall adopt rules that provide for the criteria and methods for awarding scholarships from the fund.

(17)(15) School boards and community college boards of trustees may establish, by rule, a consumable supply fee for postsecondary students enrolled in certificate career education or supplemental courses.

(18)(16) Each school board and community college board of trustees may establish a separate fee for capital improvements, technology enhancements, or equipping buildings which may not exceed 5 percent of the matriculation fee for resident students or 5 percent of the matriculation and tuition fee for nonresident students. Funds collected through these fees may not be bonded. The fee shall be collected as a component part of the registration and tuition fees, paid into a separate account, and expended only to maintain, improve, equip, or enhance the certificate career education or adult education facilities of the school district or community college. Projects funded through the use of the capital improvement fee must meet the survey and construction requirements of chapter 235. Pursuant to s. 216.0158, each school board and community college board of trustees shall identify each project, including maintenance projects, proposed to be funded in whole or in part by such fee. A maximum of 15 cents per credit hour may be allocated from the capital improvement fee for child care centers conducted by the school board or community college board of trustees.

Section 10. Section 239.201, Florida Statutes, is amended to read:

239.201 Career education instruction.—

~~(1) The State Board for Career Education shall adopt rules that provide for certificate career education instruction in each vocational planning region. The provisions of this section are not intended to contradict or supersede the provision of such programs pursuant to existing interinstitutional articulation agreements between school boards and community college boards of trustees or to authorize the duplication of programs currently in existence within a region. Pursuant to such rules, one or more school districts or community colleges may jointly implement the provisions of this section.~~

(1)(2) Adult or certificate career education instruction shall be available to all persons in the region, regardless of previous academic attainment. School boards, community college boards of trustees, and local social service agencies shall cooperate to recruit unemployed and underemployed persons into such programs.

(2)(3) The minimum support from the school district or community college for career education shall be at least in the amount of local, state, and federal funds that the career education programs earn. Local funds ~~consist of shall include, but not be limited to, millage collected for the purpose of satisfying required local effort and fee revenues generated by students enrolled in certificate career education and supplemental career education courses and programs.~~ From the funds provided pursuant to this subsection, school boards shall expend a minimum of 80 percent on aggregate school costs. Any school board that expends less than 80 percent of the required funds shall have funding withheld from the subsequent appropriation in the same amount as the total underexpenditure; however, in the subsequent year allocation, the school board shall restore the required funds to the previously underfunded programs. The school district or community college shall indicate the expenditure of such funds in an identifiable manner pursuant to rules of the State Board for Career Education.

Section 11. Paragraph (b) of subsection (2) of section 239.229, Florida Statutes, is amended to read:

239.229 Vocational standards.—

(2)

(b) School board, superintendent, and area technical center, and community college board of trustees and president accountability for certificate career education programs includes, but is not limited to:

1. Student demonstration of the academic skills necessary to enter an occupation.
2. Student preparation to enter an occupation in an entry-level position or continue postsecondary study.
3. Vocational program articulation with other corresponding postsecondary programs.
4. Employer satisfaction with the performance of *students who reach occupational completion points vocational program completers*.
5. Student completion and placement rates as defined in s. 239.233.

Section 12. Subsections (2) and (3) of section 239.249, Florida Statutes, 1996 Supplement, are amended to read:

239.249 Market-driven, performance-based incentive funding for vocational and technical education programs.—

(2) The Jobs and Education Partnership shall provide oversight and advice to improve the outcomes of *courses and programs designed for workforce development associate in science degree education and certificate technical 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 education programs.

(3) In any year in which the Legislature designates funds for performance-based incentive funding for vocational and technical education programs provided by school districts or community colleges, the Division of *Workforce Development 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 *Workforce Development Applied Technology and Adult Education* of the expected incentive award earnings of 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. 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. 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.

Section 13. Subsection (1) of section 240.118, Florida Statutes, is amended to read:

240.118 Postsecondary feedback of information to high schools.—

(1) ~~On or before January 1, 1994,~~ The State Board of Education shall adopt rules that require the Commissioner of Education to report to the State Board of Education, the Legislature, and the school districts on the performance of each first-time-in-postsecondary education student from each public high school in this state who is enrolled in a university, community college, or public ~~technical center degree career education school~~. Such reports ~~shall~~ be based on information databases maintained by the Division of Universities, Division of Community Colleges, and Division of *Workforce Development Applied Technology and Adult Education*. In addition, the universities, community colleges, and ~~technical centers degree career education schools~~ shall provide school districts access to information on student performance in regular and preparatory courses and shall indicate students referred for remediation pursuant to s. 240.117 or s. 239.213.

Section 14. Subsection (8) of section 240.147, Florida Statutes, is amended to read:

240.147 Powers and duties of the commission.—The commission shall:

(8) Recommend to the State Board of Education and the Legislature the establishment of additional branch campuses of public postsecondary educational institutions. ~~A~~ ~~no~~ branch campus may *not* be established without a review by the commission and formal authorization by the Legislature. Any community college branch campus established to provide only ~~exploratory, occupational proficiency, job preparatory, and supplemental~~ vocational and technical instruction must be reviewed and recommended again by the commission and receive specific authorization by the Legislature before expanding its instructional offerings to the college parallel program area.

Section 15. Subsection (13) of section 240.61, Florida Statutes, 1996 Supplement, is amended to read:

240.61 College reach-out program.—

(13) By January 15 of each year, the Postsecondary Education Planning Commission shall submit to the President of the Senate, the Speaker of the House of Representatives, the Commissioner of Education, and the Governor a report that evaluates the effectiveness of the college reach-out program. The report must be based upon information provided by participating institutions, the Division of Universities, the Division of Community Colleges, and the Division of *Workforce Development Applied Technology and Adult Education* pursuant to subsections (7) and (12). The evaluation must include longitudinal cohort assessments of college reach-out program participants from their entry into the program to their graduation from postsecondary institutions. To the extent feasible, the performance of college reach-out program participants must be compared to the performance of comparable cohorts of students in public school and postsecondary education.

Section 16. Subsection (1) of section 242.3305, Florida Statutes, is amended to read:

242.3305 Florida School for the Deaf and the Blind; responsibilities and mission.—

(1) The Florida School for the Deaf and the Blind is a state-supported residential school for hearing-impaired and visually impaired students in preschool through 12th grade. The school is a part of the state system of public education and shall be funded through the Division of Public Schools *and Community Education* of the Department of Education. The school shall provide educational programs and support services appropriate to meet the education and related evaluation and counseling needs of hearing-impaired and visually impaired students in the state who meet enrollment criteria. Education services may be provided on an outreach basis for sensory-impaired children ages 0 through 5 years and their parents. Graduates of the Florida School for the Deaf and the Blind shall be eligible for the tuition voucher program as provided in s. 240.605.

Section 17. Paragraph (d) of subsection (6) of section 242.331, Florida Statutes, is amended to read:

242.331 Florida School for the Deaf and the Blind; board of trustees.—

(6) The board of trustees shall:

(d) Seek the advice of the Bureau of Education for Exceptional Students within the Division of Public Schools *and Community Education* of the Department of Education.

Section 18. Subsection (1) of section 242.337, Florida Statutes, is amended to read:

242.337 Procedure for legislative budget requests for the Florida School for the Deaf and the Blind.—

(1) The legislative budget request of the Florida School for the Deaf and the Blind shall be prepared using the same format, procedures, and timelines required for the submission of the legislative budget of the Department of Education. The Commissioner of Education shall include the Florida School for the Deaf and the Blind in the department's legislative budget request to the State Board of Education, the Governor, and the Legislature. The legislative budget request and the appropriation for the Florida School for the Deaf and the Blind shall be a separate identifiable sum in the Division of Public Schools *and Community Education* budget entity of the Department of Education. The annual appropriation for the school shall be distributed monthly in payments as nearly equal as possible. Appropriations for textbooks, instructional technology, and school buses may be released and distributed as necessary to serve the instructional program for the students.

Section 19. Paragraph (a) of subsection (2) of section 288.047, Florida Statutes, 1996 Supplement, is amended to read:

288.047 Quick-response training for economic development.—

(2)(a) A Quick-Response Advisory Committee, composed of the director of the Division of *Workforce Development Applied Technology and*

~~Adult Education~~ of the Department of Education; the director of the Division of Community Colleges of the Department of Education; and the director of the Division of Jobs and Benefits of the Department of Labor and Employment Security, or their respective designees, and four private sector members, shall review training funded through this program and shall provide policy advice to Enterprise Florida, Inc., in the implementation of this program. The committee shall elect a chair from among its members. Members of the committee may receive reimbursement for per diem and travel expenses as provided in s. 112.061.

Section 20. Subsection (2) of section 446.011, Florida Statutes, is amended to read:

446.011 Declaration of legislative intent with respect to apprenticeship training.—

(2) It is the intent of the Legislature that the Division of Jobs and Benefits of the Department of Labor and Employment Security have responsibility for the development of the apprenticeship and preapprenticeship uniform minimum standards for the apprenticeable trades and that the Division of *Workforce Development and the Division of Public Schools and Community Education* ~~Applied Technology and Adult Education~~ of the Department of Education have responsibility for assisting district school boards and community college district boards of trustees in developing preapprenticeship programs in compliance with the standards established by the Division of Jobs and Benefits.

Section 21. Subsection (8) of section 446.041, Florida Statutes, is amended to read:

446.041 Apprenticeship program, duties of division.—The Division of Jobs and Benefits shall:

(8) Cooperate with and assist the Division of *Workforce Development and the Division of Public Schools and Community Education* ~~Applied Technology and Adult Education~~ of the Department of Education and appropriate career education institutions in the development of viable apprenticeship and preapprenticeship programs.

Section 22. Subsections (2) and (3) of section 446.052, Florida Statutes, are amended to read:

446.052 Preapprenticeship program.—

(2) The Division of *Public Schools and Community Education* ~~Applied Technology and Adult Education~~ of the Department of Education, under regulations established by the State Board of Education, is authorized to administer the provisions of ss. 446.011-446.092 that relate to preapprenticeship programs in cooperation with district school boards and community college district boards of trustees. District school boards, community college district boards of trustees, and registered program sponsors shall cooperate in developing and establishing programs that include vocational instruction and general education courses required to obtain a high school diploma.

(3) The Division of *Public Schools and Community Education* ~~Applied Technology and Adult Education~~, the district school boards, the community college district boards of trustees, and the Division of Jobs and Benefits shall work together with existing registered apprenticeship programs so that individuals completing such preapprenticeship programs may be able to receive credit towards completing a registered apprenticeship program.

Section 23. Paragraph (a) of subsection (2) of section 616.21, Florida Statutes, is amended to read:

616.21 Agricultural and livestock exhibit buildings; conditions for expenditures; Agricultural and Livestock Fair Council.—

(2)(a) There is created in the department the Agricultural and Livestock Fair Council, which shall be composed of five members, one of whom shall be appointed chair annually by the commissioner, as follows: *a representative of the Department of Education designated by the Commissioner the administrator of the Agriculture Section in the Division of Applied Technology and Adult Education of the Department of Education*; a representative of the department designated by the Commissioner of Agriculture; the Dean for Extension, Institute of Food and Agricultural Sciences of the University of Florida; the president of the Florida Federation of Fairs and Livestock Shows; and the president of

the Florida Farm Bureau Federation or his representative. A representative of the department shall serve as secretary to the council and shall keep a complete record of all its proceedings, which record shall show the names of the members present at each meeting and any action taken by the council.

Section 24. *Subsection (3) of section 229.8075, Florida Statutes, 1996 Supplement, and sections 15 and 16 of chapter 94-232, Laws of Florida, are repealed.*

Section 25. This act shall take effect July 1, 1997.

And the title is amended as follows: remove from the bill: the entire title and insert in lieu thereof: A bill to be entitled An act relating to education; requiring the establishment of a task force to investigate issues associated with job training and workforce development; providing membership and duties; amending ss. 20.15, 215.16, F.S.; changing the names and responsibilities of the Division of Public Schools and the Division of Applied Technology and Adult Education within the Department of Education; requiring creation of an Office of Workforce Development Funding; amending ss. 231.614, 233.056, 235.15, 235.199, 235.435, F.S.; conforming provisions; amending s. 239.117, F.S.; revising provisions relating to postsecondary student fees; amending s. 239.201, F.S.; deleting a requirement for delivery of certain programs; amending s. 239.229, F.S., relating to vocational standards; amending s. 239.249, F.S.; conforming provisions; amending s. 240.118, 240.147, F.S.; conforming provisions; amending ss. 240.61, 242.3305, 242.331, 242.337, 288.047, 446.011, 446.041, 446.052, 616.21, F.S.; conforming provisions; repealing s. 229.8075(3), F.S., relating to a reporting requirement of the Florida Education and Training Placement Information Program; repealing sections 15 and 16 of ch. 94-232, Laws of Florida, relating to a direction to the Division of Statutory Revision to change certain terms relating to vocational education; providing an effective date.

On motion by Senator Horne, the Senate refused to concur in the House amendment and the House was requested to recede and in the event the House refused to recede a conference committee was requested.

CONFEREES ON CS FOR CS FOR SB'S 1688, 792, 1334 AND 2254 APPOINTED

The President appointed Senator Kirkpatrick, Chairman; Senators Diaz-Balart, Dudley and Clary as conferees on **CS for CS for SB's 1688, 792, 1334 and 2254**.

The action of the Senate was certified to the House.

On motion by Senator Cowin, the rules were waived and the Senate reverted to—

CONSIDERATION OF BILLS ON THIRD READING

The Senate resumed consideration of—

CS for HB 137—A bill to be entitled An act relating to education; amending s. 230.03, F.S., relating to management of the district school system; providing authority for rules, procedures, and policies; correcting a cross reference; repealing s. 230.105(9), F.S., relating to ballot proposition wording for single-member representation for district school boards; amending s. 230.22, F.S.; revising provisions relating to general powers of school boards; amending s. 230.23, F.S.; revising provisions relating to powers and duties of school boards; amending s. 230.2301, F.S.; revising provisions relating to parent meetings with school district personnel; amending s. 230.2305, F.S.; revising provisions relating to the prekindergarten early intervention program; repealing s. 230.23135, F.S., relating to the Florida Council on Student Services; amending s. 230.2316, F.S.; revising provisions relating to dropout prevention; deleting definitions, certain program criteria, and provisions requiring program plans and staff development; amending s. 230.23161, F.S.; correcting a cross reference; amending s. 230.2317, F.S.; revising provisions relating to multiagency services for students with severe emotional disturbance; amending s. 230.2318, F.S.; authorizing school resource officer programs; deleting program purposes and plan requirements; amending s. 230.303, F.S.; deleting obsolete language; amending s. 230.33, F.S.;

revising provisions relating to duties and responsibilities of superintendents; amending s. 230.331, F.S., relating to reproduction and destruction of district school records; amending s. 230.35, F.S., relating to schools under the control of the school board and superintendent; repealing ss. 230.59, 230.655, and 230.71, F.S., relating to educational communications systems, education programs in correctional facilities, and intergenerational school volunteer programs; amending s. 232.01, F.S., and repealing ss. 232.04 and 232.045, F.S.; combining provisions relating to school attendance requirements; amending s. 232.021, F.S.; conforming provisions; amending s. 232.0225, F.S.; revising provisions relating to absence for religious instruction or holidays; repealing s. 232.023, F.S., relating to falsification of attendance records; amending s. 232.03, F.S.; correcting cross references; repealing s. 232.032(2) and 232.034, F.S., relating to an investigation of tuberculosis incidence and a medical exemption for transporting students; amending s. 232.06, F.S.; revising provisions relating to school attendance certificates of exemption; amending s. 232.09, F.S.; correcting a cross reference; repealing ss. 232.10, 232.13, and 232.165, F.S., relating to explanation of student absence, reports of exceptional children, and nonissuance or suspension of driver's license based on student enrollment; amending s. 232.17, F.S.; revising provisions relating to enforcement of school attendance; deleting reference to attendance assistants; amending s. 232.19, F.S.; conforming provisions; repealing ss. 232.245(2) and (3) and 232.2452, F.S., relating to requirements for school district programs for pupil progression and report cards; repealing s. 232.2461, F.S., relating to model curriculum standards; amending s. 232.2462, F.S.; deleting attendance requirements for receipt of high school credit; amending s. 232.2468, F.S., and repealing subsections (2) and (3), relating to graduation, habitual truancy, and dropout rates; repealing ss. 232.257 and 232.258, F.S., relating to the School Safety Program and school and community resource grants; amending s. 232.271, F.S.; conforming provisions; repealing ss. 232.276, 232.3015, 232.303, and 232.304, F.S., relating to parenting workshops, outreach programs, interagency student services, and multiagency coordinating councils; repealing s. 233.011, F.S., relating to accountability in curriculum, instructional materials, and testing; amending s. 233.061, F.S.; revising provisions relating to required instruction; creating s. 233.0612, F.S.; providing authorized instruction; repealing ss. 233.0615, 233.06411, 233.0645, 233.065, 233.0661, 233.0662, 233.0663(2), (3), (4), (5), (6), and (7), 233.067, 233.0671, and 233.068(3) and (4), F.S., relating to a character development and law education program, a free enterprise and consumer education program, voting instruction, patriotic programs, certain requirements of the drug abuse and resistance education program, comprehensive health education and substance abuse prevention, courses of study in the care of nursing home patients, and planning and implementation of a career development and applied technology program; amending s. 233.07, F.S.; deleting obsolete language; renumbering s. 234.041, F.S., relating to school buses; repealing s. 234.0515, F.S., relating to transportation of students by private transportation companies; repealing ss. 234.061 and 234.091, F.S., relating to designation of routes and school bus driver qualifications, to conform; amending and renumbering s. 234.302, F.S., relating to school crossing guards; amending ss. 24.121, 39.01, 228.053, 228.061, 229.0535, 229.565, 229.58, 229.592, 229.594, 229.8055, 231.085, 231.095, 231.1725, 236.013, 236.081, 236.0811, 236.0812, 236.1228, 239.101, 239.229, 397.405, 402.22, 415.5015, 450.121, 493.6102, and 561.025, F.S.; correcting cross references, conforming language, and deleting obsolete language; amending s. 236.24, F.S.; clarifying language relating to school board securities transactions; repealing s. 236.0842, F.S., relating to approval for dropout prevention programs, to conform; providing an effective date.

—which was previously considered this day.

Senator Cowin moved the following amendments which were adopted:

Amendment 1 (with title amendment)—On page 161, between lines 6 and 7, insert:

Section 71. Paragraph (b) of subsection (3) of section 11.42, Florida Statutes, 1996 Supplement, is amended to read:

11.42 The Auditor General.—

(3)

(b)1. No person shall be employed as a financial auditor who does not possess the qualifications to take the examination for a certificate as certified public accountant under the laws of this state, and no person

shall be employed or retained as legal adviser, on either a full-time or a part-time basis, who is not a member of The Florida Bar.

2. Notwithstanding the provisions of subparagraph 1., employees in the positions associated with the Florida Education Finance Program full-time enrollment verification function that is assigned to the Auditor General pursuant to s. 229.565(2) s. 229.565(3) may continue to meet the job qualifications that existed prior to such transfer for a period of 3 years after such transfer. Thereafter, they shall meet the requirements of subparagraph 1. This subparagraph is repealed on July 1, 1998.

Section 72. Section 20.15, Florida Statutes, is amended to read:

20.15 Department of Education.—There is created a Department of Education.

(1) *STATE BOARD OF EDUCATION.*—~~In accordance with The head of the Department of Education is the State Board of Education composed of the Governor and Cabinet as specified in s. 2, Art. IX of the State Constitution, the State Board of Education is the chief policymaking body of public education in the state as specified in chapter 229. The Governor is chair of the board, and the Commissioner of Education is the secretary and executive officer and in the absence of the Governor shall serve as chair.~~

(2) *COMMISSIONER OF EDUCATION.*—~~The head of the Department of Education is the Commissioner of Education who shall be elected by vote of the qualified electors of the state pursuant to s. 5, Art. IV of the State Constitution.~~

(a) *The Commissioner of Education shall appoint a Deputy Commissioner for Educational Programs who has such powers, duties, responsibilities, and functions as are necessary to ensure the greatest possible coordination, efficiency, and effectiveness of kindergarten through 12th-grade education and vocational and continuing education programs.*

(b) *The Commissioner of Education shall appoint a Deputy Commissioner for Planning, Budgeting, and Management who has such powers, duties, responsibilities, and functions as are necessary to ensure the greatest possible coordination of policies, programs, and procedures for the statewide system of education and the department.*

(3)(2) *DIVISIONS.*—

(a) The following divisions of the Department of Education are established:

1. Division of Community Colleges.
2. Division of Public Schools.
3. Division of Universities.
4. Division of Applied Technology and Adult Education.
5. Division of Human Resource Development.

(b) The Commissioner of Education is authorized to establish within the Department of Education a Division of Administration.

(4)(3) *DIRECTORS.*—The Board of Regents is the director of the Division of Universities, and the State Board of Community Colleges is the director of the Division of Community Colleges, pursuant to chapter 240. The directors of all other divisions shall be appointed by the commissioner subject to approval by the state board.

(5)(4) *POWERS AND DUTIES.*—The State Board of Education and the Commissioner of Education:

(a) Shall assign to the Division of Public Schools such powers, duties, responsibilities, and functions as are necessary to ensure the greatest possible coordination, efficiency, and effectiveness of kindergarten through 12th grade education.

(b) Shall assign to the Division of Applied Technology and Adult Education such powers, duties, responsibilities, and functions as are necessary to ensure the greatest possible coordination, efficiency, and effectiveness of career and continuing education.

(c) Shall assign to the State Board of Community Colleges such powers, duties, responsibilities, and functions as are necessary to ensure the coordination, efficiency, and effectiveness of community colleges, except those duties specifically assigned to the Commissioner of Education in

ss. 229.512 and 229.551 and the duties concerning physical facilities in chapter 235.

~~(6)(5) COUNCILS AND COMMITTEES.—Notwithstanding anything contained in law to the contrary, the Commissioner of Education shall appoint all members of all councils and committees of the Department of Education, except the Board of Regents, the State Board of Community Colleges, the state instructional materials committees, and the community college district boards of trustees, the Postsecondary Education Planning Commission, the Education Practices Commission, the Education Standards Commission, the State Board of Independent Colleges and Universities, the Florida Commission on Education Reform and Accountability, and the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools shall hereafter be appointed by the State Board of Education from a list of two or more names nominated for each position by the Commissioner of Education.~~

~~(7)(6) BOARDS.—Notwithstanding anything contained in law to the contrary, all members of the Board of Regents, the State Board of Community Colleges, and the community college district boards of trustees must shall be appointed according to chapter 240.~~

Section 73. Section 228.03, Florida Statutes, is amended to read:

228.03 Scope of state system.—The state system of public education includes such school systems, schools, institutions, agencies, services, and types of instruction as may be provided and authorized by law, or by regulations of the state board and of the Commissioner of Education within limits prescribed by law.

Section 74. Subsections (1), (5), (6), (13), (18), and (29) of section 228.041, Florida Statutes, 1996 Supplement, are amended and subsection (35) of that section is repealed and present subsections (36), (37), (38), (39), and (40) of that section are redesignated as subsections (35), (36), (37), (38), and (39), respectively, to read:

228.041 Definitions.—Specific definitions shall be as follows, and wherever such defined words or terms are used in the Florida School Code, they shall be used as follows:

(1) STATE SYSTEM OF PUBLIC EDUCATION.—The state system of public education shall consist of such publicly supported and controlled schools, institutions of higher education, other educational institutions, and other educational services as may be provided or authorized by the Constitution and laws of this state.

(a) Public schools.—The public schools shall consist of kindergarten classes; elementary and secondary school grades and special classes; adult, part-time, vocational, and evening schools, courses, or classes authorized by law to be operated under the control of school boards; and developmental research schools to be operated under the control of the State University System.

(b) Community colleges.—Community colleges shall consist of all educational institutions which are operated by local community college district boards of trustees under specific authority and regulations of the State Board of Education and which offer courses and programs of general and academic education parallel to that of the first and second years of work in institutions in the State University System, of career education, and of adult continuing education.

(c) Institutions of higher education.—The institutions of higher education shall consist of all state-supported educational institutions offering work above the public school level, other than community colleges, that are authorized and established by law, together with all activities and services authorized by law to be administered by or through each of those institutions.

(d) Other educational institutions.—Other state-supported institutions primarily of an educational nature shall be considered parts of the state system of public education. The educational functions of other state-supported institutions which are not primarily of an educational nature but which have specific educational responsibilities shall be considered responsibilities belonging to the state system of public education.

~~(e) Other educational services.—Other educational services shall include health services and such special services and functions as may be authorized by law or by regulations of the state board as prescribed by~~

~~law and as are considered necessary to improve, promote, and protect the adequacy and efficiency of the state system of public education.~~

~~(e) Other education-related services.—Other education-related services may include health services, and other special services and functions as may be authorized by law or rule as necessary to improve, promote or protect the education system.~~

(f) Florida School for the Deaf and the Blind.—The Florida School for the Deaf and the Blind is a part of the state system of education.

(5) SCHOOL.—A school is an organization of pupils for instructional purposes on an elementary, secondary, or other public school level, approved under regulations of the Commissioner of Education or state board.

(6) SCHOOL CENTER.—A school center is a place of location of any school or schools on the same or on adjacent sites or on a site under the control of the principal and within a reasonable distance of the main center as prescribed by regulations of the Commissioner State Board of Education.

(13) SCHOOL DAY.—A school day for any group of students is that portion of the day in which school is actually in session and shall comprise not less than 5 net hours, excluding intermissions, for all grades above the third; not less than 4 net hours for the first three grades; and not less than 3 net hours for kindergarten or prekindergarten students with disabilities, or the equivalent as calculated on a weekly basis. The net hours specified in this subsection shall consist only of instruction in an approved course of study and shall exclude all noninstructional activities as defined by rules of the Commissioner State Board of Education. Three of the last days of the 90-day term, and of the 180-day term, may be designated by the district school board as final examination days for secondary school students. These final examination days shall consist of no less than 4 net hours, excluding intermissions. The minimum length of the school day herein specified may be decreased under rules which shall be adopted by the state board for double session schools or programs, experimental schools, or schools operating under emergency conditions.

(18) EXCEPTIONAL STUDENT.—The term "exceptional student" means any child or youth who has been determined eligible for a special program in accordance with rules of the Commissioner of Education or the State Board of Education Rules. The term "exceptional students" includes students who are gifted and students with disabilities who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, hospital and home-bound, autistic, developmentally delayed children, ages birth through 5 years, or children with established conditions, ages birth through 2 years.

(29) DROPOUT.—A dropout is a student over the age of compulsory school attendance, as defined in s. 232.01, who meets any one or more of the following criteria:

(a) The student has voluntarily removed himself or herself from the school system before graduation for reasons that include, but are not limited to, marriage or entrance into the military, or the student has withdrawn from school because he or she has failed the statewide student assessment test and thereby does not receive any of the certificates of completion;

(b) The student has not met the relevant attendance requirements of the school district pursuant to State Board of Education rules, or the student was expected to attend a school but did not enter as expected for unknown reasons, or the student's whereabouts are unknown;

(c) The student has withdrawn from school, but has not transferred to another public or private school or enrolled in any vocational, adult, or alternative educational program;

(d) The student has withdrawn from school due to hardship, unless such withdrawal has been granted under the provisions of s. 322.0601, court action, expulsion, medical reasons, or pregnancy; or

(e) The student is not eligible to attend school because of reaching the maximum age for an exceptional student program in accordance with the district's policy.

Students not exempt from attendance pursuant to s. 232.06 and under the age of compulsory school attendance who stop attending school shall be known as habitual truants as defined in subsection (28) and are not to be considered dropouts. The State Board of Education may adopt rules to implement the provisions of this subsection.

Section 75. Section 228.062, Florida Statutes, is amended to read:

228.062 Migrant education program.—The Commissioner of Education shall recommend, and the State Board of Education shall prescribe, such rules as are necessary to provide for the participation of the state in the federal migratory child compensatory education program, which may be funded from federal or other lawful sources. The Department of Education is authorized to plan, fund, and administer educational programs for migrant children in the state, beginning for such children at age 3. Such programs shall be operated through grants to local school districts or through contracts with other public agencies or nonprofit corporations.

Section 76. Section 228.081, Florida Statutes, is amended to read:

228.081 Other public educational services.—The general control of other public educational services shall be vested in the state board except as provided herein. The state board shall, at the request of the Department of *Children Health and Family Rehabilitative Services and the Department of Juvenile Justice*, advise as to standards and requirements relating to education to be met in all state schools or institutions under their control which provide educational programs. The Department of Education shall provide supervisory services for the educational programs of all such schools or institutions. The direct control of any of these services provided as part of the district program of education shall rest with the school board. These services shall be supported out of state, district, federal, or other lawful funds, depending on the requirements of the services being supported.

Section 77. Section 228.086, Florida Statutes, is amended to read:

228.086 Regional centers of excellence in mathematics, science, computers, technology, and global awareness.—

(1) The Department of Education is authorized to award grants to public school districts, developmental research schools, state community colleges, state universities, private postsecondary institutions, or museums of science as defined in s. 265.608, or any combination thereof, to establish regional centers of excellence in mathematics, science, computers, technology, and global awareness.

(2) The State Board of Education shall adopt rules to implement the program for regional centers of excellence. Such rules shall provide procedures for proposals to be submitted by individual public school districts, developmental research schools, state community colleges, state universities, private postsecondary institutions, or museums of science as defined in s. 265.608, according to prescribed format criteria. The rules shall also specify criteria for evaluation of the proposals so that the final selections will result at least in one center being located in each of the reporting and coordinating regions of the Department of Education, which regions shall be known as "Panhandle," "Crown," "East Central," "West Central," and "South." For purposes of this section, the South region shall be further divided into "Upper" and "Lower" regions. Dade County and Monroe County shall comprise the Lower South region. The Upper South region shall be composed of the remaining counties in the South region. At least one center shall be located in the Upper South region and at least one center shall be located in the Lower South region. The final selections shall be made by the commissioner with the primary consideration to be the greatest potential impact on student performance within the region in terms of dollars required. Funding for each regional center shall be in an amount established by the Legislature after consideration of the budget request of the center, which request shall include specific performance data and quantifiable objectives for the following year. If a center is deemed not to be meeting its stated objectives, as determined by the State Board of Education, the Legislature shall zero fund the center and the commissioner shall promptly call for new proposals within that region.

(3)(a) Each center shall have a director appointed by the appropriate administrator of the district school board, developmental research school, state community college, state university, private postsecondary institution, or museum of science as defined in s. 265.608, where the center is located, funded, and administered. Such governing entity shall

be generally responsible and accountable for all activities of the center with the director being specifically responsible and accountable.

(b) Upon consideration of the recommendations of the governing entity of the center, the commissioner shall appoint an advisory council for each center consisting of no more than 11 members. Prior to appointing the advisory council, the commissioner shall solicit input from each of the groups which shall be represented on the council. Membership shall be representative of public school districts, developmental research schools, state community colleges, state universities, private postsecondary institutions, or museums of science as defined in s. 265.608, and private industry and business. The advisory council shall make recommendations regarding policy, activities, and fiscal operations and shall facilitate coordination of entities within the region. The director of the center and staff of the center shall also serve as staff to the council.

(4) The evaluation of proposals shall include consideration of:

(a) Cooperative arrangements among public school districts, developmental research schools, state community colleges, state universities, private postsecondary institutions, or museums of science as defined in s. 265.608, and the other governmental agencies and the private sector, including cooperative funding arrangements.

(b) Strategies for improvement of student performance.

(c) Development and dissemination of new principles, techniques, knowledge, and instructional strategies.

(d) Evaluation and development of instructional materials.

(e) Recruitment and training of minority and female students for careers in mathematics, science, or computer-related careers or global awareness.

(f) Recruitment or retraining to include, but not be limited to, retired military or private industry and business personnel for teaching.

(g) Identification and assistance in the acquisition of revenues and other resources from the private sector, federal or state government, or foundations for programs in mathematics, science, or computer education or global awareness.

(h) Production and dissemination of videotaped instructional materials for students and teachers.

(i) Development, dissemination, and evaluation of instructional materials, teacher training, and related services for public school students whose native language is other than English and whose proficiency in English is limited where substantiated need exists as determined by the Department of Education.

(j) Development and operation of a computer education laboratory and library of related materials.

(5) As used in this section, the term "private postsecondary institution" means an independent nonprofit college or university which is located in and chartered by the state; which is accredited by an agency holding membership in the Commission on Recognition of Postsecondary Accreditation; which grants baccalaureate, associate in arts, or associate in science degrees and the credits of which are acceptable without qualification for transfer to state universities; and which is not a state university or state community college or a pervasively sectarian institution.

(6) This section shall be implemented in the 1983-1984 school year and thereafter only to the extent as specifically funded and authorized by law.

Section 78. Section 228.088, Florida Statutes, is amended to read:

228.088 High schools and secondary schools utilization of security programs.—Each district high school and secondary school shall develop and implement programs for security purposes to be in effect during school operating hours. Such programs may consist of teachers, volunteers, neighborhood watch programs, school resource officers, security guards, or any combination thereof. The *Commissioner* State Board of Education shall adopt rules to implement the provisions of this section.

Section 79. Subsection (3) of section 228.092, Florida Statutes, is amended to read:

228.092 Retention of records of students attending nonpublic schools.—

(3) DEPARTMENT RESPONSIBILITIES.—All nonpublic schools that ~~which~~ become defunct shall notify the *Deputy Commissioner for Educational Programs Management Information Service Section* in the Department of Education of the date of transfer of student records, the location of storage, the custodian of such records, and the number of records to be stored. The department shall act as a clearinghouse and maintain a registry of such transfers of student records.

Section 80. Subsections (2) and (3) of section 228.195, Florida Statutes, are amended to read:

228.195 School food service programs.—

(2) STATE RESPONSIBILITY.—The Commissioner of Education shall ~~recommend, and the State Board of Education shall~~ prescribe, rules and standards covering all phases of the administration and operation of the school food service programs.

(3) SCHOOL DISTRICT RESPONSIBILITY.—Each district school board shall consider the recommendations of the district superintendent and adopt policies to provide for an appropriate food and nutrition program for children consistent with regulations and standards prescribed by the ~~commissioner state board~~.

Section 81. Subsection (1) of section 228.301, Florida Statutes, is amended to read:

228.301 Test security.—

(1) It is unlawful for anyone knowingly and willfully to violate test security rules adopted by the State Board of Education or the *Commissioner of Education* for mandatory tests administered by or through the State Board of Education or the *Commissioner of Education* to students, educators, or applicants for certification or administered by school districts pursuant to s. 229.57, or, with respect to any such test, knowingly and willfully to:

- (a) Give examinees access to test questions prior to testing;
- (b) Copy, reproduce, or use in any manner inconsistent with test security rules all or any portion of any secure test booklet;
- (c) Coach examinees during testing or alter or interfere with examinees' responses in any way;
- (d) Make answer keys available to examinees;
- (e) Fail to follow security rules for distribution and return of secure test as directed, or fail to account for all secure test materials before, during, and after testing;
- (f) Fail to follow test administration directions specified in the test administration manuals; or
- (g) Participate in, direct, aid, counsel, assist in, or encourage any of the acts prohibited in this section.

Section 82. Subsection (13) of section 228.502, Florida Statutes, 1996 Supplement, is amended to read:

228.502 The Education Success Incentive Program.—

(13) The Department of Education shall administer the Education Success Incentive Program pursuant to rules adopted by the ~~Commissioner State Board~~ of Education.

Section 83. Section 229.011, Florida Statutes, is amended to read:

229.011 State functions.—Public education is basically a function and responsibility of the state. The responsibility for establishing ~~such~~ ~~minimum~~ standards and regulations as ~~shall tend~~ to assure efficient operation of all schools and adequate educational opportunities for all children is retained by the state.

Section 84. Section 229.053, Florida Statutes, 1996 Supplement, is amended to read:

229.053 General powers of state board.—

(1) The State Board of Education is the chief policymaking and coordinating body of public education in Florida. It has the general powers to determine, adopt, or prescribe such policies, rules, regulations, or standards as are required by law or as it may find necessary for the improvement of the state system of public education. Except as otherwise provided herein, it may, as it shall find appropriate, delegate its general powers to the Commissioner of Education or the directors of the divisions of the department.

(2) The board has the following duties:

(a) To adopt comprehensive educational objectives for public education.

(b) To adopt comprehensive long-range plans and short-range programs for the development of the state system of public education.;

(c) To exercise general supervision over the divisions of the Department of Education ~~as, including the Division of Universities, to the extent~~ necessary to ensure coordination of educational plans and programs and resolve controversies and ~~to coordinate the academic calendars of universities, community colleges, and public schools~~ to minimize problems of articulation and student transfers, to assure that students moving from one level of education to the next have acquired competencies necessary for satisfactory performance at that level, and to ensure maximum utilization of facilities.;

(d) To adopt for public universities and community colleges, and from time to time modify, minimum and uniform standards of college-level communication and computation skills generally associated with successful performance and progression through the baccalaureate level; ~~to approve tests and other assessment procedures which measure student achievement of those skills;~~ and to identify college-preparatory high school coursework and postsecondary-level coursework that prepares students with the academic skills necessary to succeed in postsecondary education.;

(e) To adopt and transmit to the Governor as chief budget officer of the state on official forms furnished for such purposes, on or before September 1 of each year, estimates of expenditure requirements for the State Board of Education, the Commissioner of Education, and all of the boards, institutions, agencies, and services under the general supervision of the State Board of Education for the ensuing fiscal year.;

(f) To hold meetings, transact business, keep records, adopt a seal, and perform such other duties as may be necessary for the enforcement of all laws and regulations relating to the state system of public education.;

~~(g) To have possession of and manage all lands granted to or held by the state for educational purposes;~~

~~(h) To administer the State School Fund;~~

~~(g)(h) To approve plans for cooperating with the Federal Government and, pursuant thereto, by regulation to accept funds, create subordinate units, and provide the necessary administration required by any federal program;~~

~~(h)(f) To approve plans for cooperating with other public agencies in the development of regulations and in the enforcement of laws for which the state board and such agencies are jointly responsible.;~~

~~(i)(k) To review approve plans for cooperating with appropriate nonpublic agencies for the improvement of conditions relating to the welfare of schools.;~~

~~(l) To authorize, approve, and require to be used such forms as are needed to promote uniformity, accuracy, or completeness in executing contracts, keeping records, or making reports;~~

~~(j)(m) To create such subordinate advisory bodies as are may be required by law or as it finds may find necessary for the improvement of education.;~~

~~(k)(n) To constitute the State Board for Career Education or other structures as may be required by federal law.;~~

(l) To assist in the economic development of the state by developing a state-level planning process to identify future training needs for industry, especially high-technology industry.

(m) To assist in the planning and economic development of the state by establishing a clearinghouse for information on educational programs of value to economic development.

(n)(e) To contract with independent institutions accredited by an agency holding membership in the Commission on Recognition of Postsecondary Accreditation for the provision of those educational programs and facilities which will meet needs unfulfilled by the state system of public postsecondary education;

~~(p) To adopt, based on recommendations of the Postsecondary Education Planning Commission, criteria for the establishment of new community colleges and state universities; and~~

(o)(e) To recommend that a district school board take action consistent with the state board's decision relating to an appeal of a charter school application.

Section 85. Subsection (2) of section 229.085, Florida Statutes, is amended to read:

229.085 Custody of educational funds.—

(2) There is created in the Department of Education the Projects, Contracts, and Grants Trust Fund. If, in executing the terms of such grants or contracts for specific projects, the employment of personnel shall be required, such personnel shall not be subject to the requirements of s. 216.262(1)(a). ~~Effective July 1, 1979,~~ The personnel employed to plan and administer such projects shall be considered in time-limited employment not to exceed the duration of the grant or until completion of the project, whichever first occurs. Such employees shall not acquire retention rights under the Career Service System, the provisions of s. 110.051(1) to the contrary notwithstanding. Any employee holding permanent career service status in a Department of Education position who is appointed to a position under the Projects, Contracts, and Grants Trust Fund shall retain such permanent status in the career service position.

Section 86. Subsection (1) of section 229.111, Florida Statutes, is amended to read:

229.111 State board authorized to accept gifts.—

(1) ~~The Commissioner of Education may State Board of Education shall have authority to accept or decline, on behalf of the state system of public education or of any school fund established or recognized by law, any gift or bequest of money, royalty, or other personal or real property given or bequeathed to the state system of public education, or to any school fund established or recognized by law; provided, that no Conditions may not shall be attached to any such gift or bequest of money, royalty, or other personal or real property given or bequeathed for the purposes designated herein which are contrary to the provisions of law or regulations of the state board relating to the use or expenditure of the fund.~~

Section 87. 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 has the following general powers and duties:

(1) To appoint staff necessary to carry out his or her powers and duties, ~~except that appointment of all division directors shall be subject to approval by the State Board of Education, except the Board of Regents, whose members shall be appointed pursuant to s. 240.207, and the State Board of Community Colleges, whose members shall be appointed pursuant to s. 240.307;~~

(2) To suspend, for cause, with the approval of the State Board of Education, a public community college president. Such suspension shall be acted upon expeditiously by the local community college board of trustees.;

(3) To advise and counsel with the State Board of Education on all matters pertaining to education; to recommend to the State Board of

Education actions and policies as, in the commissioner's opinion, should be acted upon or adopted; and to execute or provide for the execution of all acts and policies as are approved.;

(4) To call such special meetings of the State Board of Education as the commissioner deems necessary.;

(5) To keep such records as are necessary to set forth clearly all acts and proceedings of the state board.;

(6) To have a seal for his or her office with which, in connection with his or her own signature, the commissioner shall authenticate true copies of decisions, acts, or documents.;

(7) To assemble all data relative to the preparation of the long-range plan for the development of the state system of public education; to propose for adoption by the State Board of Education such a plan; and to propose revisions in the plan as may be necessary.;

(8) To recommend to the State Board of Education policies and steps designed to protect and preserve the principal of the State School Fund; ~~and to provide an assured and stable income from the fund; and to execute such policies and actions as are approved; and to administer the State School Fund.~~

~~(9) To take action on the release of mineral rights based upon the recommendations of the Board of Trustees of the Internal Improvement Trust Fund, investigate and submit proposals for sale of all school lands held by the state for educational purposes; to recommend policies for rental, use, or improvement of such lands and for preserving them from trespass or injury, and to execute such policies as are approved;~~

(10) To submit to the State Board of Education, at least 30 days prior to the date fixed herein, recommendations of expenditures for the State Board of Education, the Commissioner of Education, and all of the boards, institutions, agencies, and services under the general supervision of the State Board of Education for the ensuing fiscal year.;

~~(11) To develop and implement a plan for recommend ways and means of cooperating with the Federal Government in carrying out any or all phases of the educational program and to recommend policies for administering funds that are which may be appropriated by Congress and apportioned to the state for any or all educational purposes.;~~

(12) To develop and implement recommend policies for cooperating with other public agencies in carrying out those phases of the program in which such cooperation is required by law or is deemed by the commissioner to be desirable and to cooperate with public and nonpublic agencies in planning and bringing about improvements in the educational program.;

~~(13) To prepare for approval of the State Board of Education such forms and procedures as are deemed necessary to be used by the Board of Regents, boards of trustees of community colleges, district school boards, and all other educational agencies to assure uniformity, accuracy, and efficiency in the keeping of records, the execution of contracts, the preparation of budgets, or the submission of reports; to furnish at state expense, when deemed advisable by the commissioner, those forms that which can more economically and efficiently be provided.;~~

(14) To implement 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.;

(15) To develop criteria for use by state instructional materials committees in evaluating materials submitted for adoption consideration. The criteria shall, as appropriate, be based on instructional expectations reflected in curriculum frameworks and student performance standards.

The criteria for each subject or course shall be made available to publishers of instructional materials at least 24 months prior to the date on which bids are due as provided by s. 233.14. It is the intent of the Legislature that publishers have ample time to develop instructional materials designed to meet requirements in this state.

Section 88. Section 229.515, Florida Statutes, is created to read:

229.515 Rules and standards have force of law.—The Commissioner of Education may prescribe such rules and minimum standards as are necessary to carry out his or her responsibilities under the school code, with the exception of provisions relating to state universities and community colleges and the Florida School for the Deaf and the Blind, and all such rules and minimum standards, if not in conflict with the school code, have the full force and effect of law. The commissioner, in prescribing such rules, is considered an "agency" for purposes of chapter 120.

Section 89. Section 229.559, Florida Statutes, is amended to read:

~~229.559 Social security numbers used as student identification numbers.—Beginning in the 1990-1991 school year, Each school district shall request that each student enrolled in a public school in this state provide his or her social security number. Beginning in the 1991-1992 school year, Each school district shall use social security numbers as student identification numbers in the management information system maintained by the school district. However, a student is shall not be required to provide his or her social security number as a condition for enrollment or graduation. A student satisfies this requirement by presenting to school enrollment officials his or her social security card or a copy of the such card. The school district shall include the social security number in the student's permanent records and shall indicate if the student identification number is not a social security number. The commissioner shall provide assistance to school districts to assure that the assignment of student identification numbers other than social security numbers is kept to a minimum and to avoid duplication of any student identification number. By March 1, 1991, the commissioner shall report to the State Board of Education the increase in student social security numbers on record and the actions implemented and planned to enable districts to comply with the requirements of this section by the 1991-1992 school year.~~

Section 90. Section 229.565, Florida Statutes, is amended to read:

229.565 Educational evaluation procedures.—

(1) STUDENT PERFORMANCE STANDARDS.—

(a) The State Board of Education shall approve student performance standards in the various program categories and chronological grade levels which the Commissioner of Education designates as necessary for maintaining a good educational system. The standards must apply, without limitation, to *language arts, mathematics, science, social studies, the arts, health and physical education, and foreign language reading, writing, mathematics, science, history, government, geography, economics, and computer literacy.* The commissioner shall obtain opinions and advice from citizens, educators, and members of the business community in developing the standards. For purposes of this section, the term "student performance standard" means a statement describing a skill or competency *that* students are expected to learn.

(b) The student performance standards must address the skills and competencies that a student must learn in order to graduate from high school. The commissioner shall also develop performance standards for students who learn a higher level of skills and competencies.

~~(c) Section 3, chapter 83-327, Laws of Florida, shall be implemented in the 1983-1984 school year and thereafter only to the extent specifically funded and authorized by law.~~

~~(2) STANDARDS OF EXCELLENCE.—The State Board of Education shall approve performance standards of excellence in, but not limited to, mathematics and science, which the Commissioner of Education determines shall best indicate the status of the state system of public education. This provision shall be implemented in the 1983-1984 school year and thereafter only to the extent specifically funded and authorized by law.~~

(2)(3) EDUCATION EVALUATION.—The Commissioner of Education, or the Auditor General as provided in paragraph (a), shall periodically examine and evaluate procedures, records, and programs in each

district to determine compliance with law and rules established by the state board or the Commissioner of Education and in each correctional institution operated by the Department of Corrections to determine compliance with law and rules established by the Department of Corrections for the Correctional Education Program pursuant to s. 944.801. Such evaluations *must shall* include, but *need* not be limited to:

(a) Reported full-time equivalent membership in each program category. This evaluation *must shall* be conducted by the Auditor General for the Florida Education Finance Program full-time enrollment verification function.

(b) The organization of all special programs to ensure compliance with law and the criteria established and approved by the state board pursuant to the provisions of this section and s. 230.23(4)(m).

(c) The procedures for identification and placement of students in educational alternative programs for students who are disruptive or unsuccessful in a normal school environment and for diagnosis and placement of students in special programs for exceptional students, to determine that the district is following the criteria for placement established by rules of the state board and of the Commissioner of Education and the procedures for placement established by that district school board.

~~(d) Procedures for screening, identification, and assignment of instructional strategies of the Florida Primary Education Program, or an approved alternative program as provided in s. 230.2312, and any other provisions of the program.~~

~~(d)(e)~~ An evaluation of the standards by which the school district evaluates basic and special programs for quality, efficiency, and effectiveness.

~~(e)(f)~~ Determination of the ratio of administrators to teachers in each school district.

~~(f)(g)~~ Compliance with the cost accounting and reporting requirements of s. 237.34 and the extent to which the percentage expenditure requirements therein are being met.

~~(g)(h)~~ Clearly defined data collection and documentation requirements, including specifications of which records and information need to be kept and how long the records need to be retained. The information and documentation needs for evaluation *must shall* be presented to the school districts and explained well in advance of the actual audit date.

~~(h)(i)~~ Determination of school district achievement in meeting the performance standards specified in s. 232.2454(1).

(3)(4) ASSISTANCE AND ADJUSTMENTS.—If discrepancies or deficiencies are found, the Commissioner of Education *must shall* provide information and assistance to the superintendent and personnel of the district in correcting the cited deficiencies. Priority for such assistance *must shall* be given to providing the most deficient individual school programs with research-based problem identification strategies and alternatives to improve student performance. Such alternatives *must shall* be systematically drawn from research related to school effectiveness, teacher effectiveness, or management effectiveness. If it is determined that the approved criteria and procedures for the placement of students and the conduct of programs have not been followed by the district, appropriate adjustments in the full-time equivalent student count for that district *must shall* be made, and any excess funds *must shall* be deducted from subsequent allocations of state funds to that district. As provided for by ~~rule rules of the State Board of Education~~, if errors in a specific program of a district recur in consecutive years due to lack of corrective action by the district, adjustments may be made based upon statistical estimates of error projected to the overall district program.

~~(5) PREKINDERGARTEN EARLY INTERVENTION PROGRAM.—The commissioner shall annually examine and evaluate the procedures, records, and programs of each district which has established a pre-kindergarten early intervention program to determine the district's compliance with s. 230.2305 and with the approved district plan for the prekindergarten early intervention program.~~

Section 91. Subsections (3) and (4) of section 229.57, Florida Statutes, are amended to read:

229.57 Student assessment program.—

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner is directed to design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools. The program must be designed, as far as possible, so as not to conflict with ongoing district assessment programs and so as to use information obtained from district programs. Pursuant to the statewide assessment program, the commissioner shall:

(a) Submit to the state board a list that specifies student skills and competencies to which the goals for education specified in the state plan apply, including, but not limited to, reading, writing, and mathematics. The skills and competencies must include problem-solving and higher-order skills as appropriate. The commissioner shall select such skills and competencies after receiving recommendations from educators, citizens, and members of the business community. ~~Such skills and competencies must include, without limitation, those which comprise minimum standards of student performance.~~ The commissioner shall submit to the state board revisions to the list of student skills and competencies in order to maintain continuous progress toward improvements in student proficiency.

(b) Develop and implement a uniform system of indicators to describe the performance of public school students and the characteristics of the public school districts and the public schools. These indicators must include, without limitation, information gathered by the comprehensive management information system created pursuant to s. 229.555 and student achievement information obtained pursuant to this section.

(c) Develop and implement a student achievement testing program as part of the statewide assessment program, to be administered each spring, of grades 4, 7, and 10 in reading, writing, and mathematics. The testing program must be designed as follows:

1. For grades 4 and 7, the testing program must use nationally normed achievement tests that are administered by school districts in accordance with subsection (4). The State Board of Education shall adopt rules specifying the procedures to be used in reviewing available tests and rules designating a list of tests that are acceptable for this purpose. Each school district must administer one of the designated tests to fulfill the requirements of this section. The commissioner shall take steps to assure that the designated tests are administered in a uniform and acceptable manner and shall designate the dates of administration of these tests.

2. For grade 10, the testing program must use a nationally normed student achievement test selected through an appropriate bidding process. The commissioner shall designate the criteria to be considered in the bidding process, including, without limitation, the degree to which the nationally normed test is compatible with college-level communication and computation skills defined pursuant to s. 229.551(3)(f), the degree of relationship with the skills measured by the college-level communication and computation skills examination prescribed by s. 240.107, the technical quality of the test, the adequacy of normative data, and the security of the test forms to be used in this state. The content of the tests must include testing of problem-solving and higher-order skills to the extent possible. Participation in the 10th grade testing program is mandatory for all students in public schools except as may be otherwise prescribed by the commissioner for students not pursuing regular high school diplomas.

3. The testing programs for grades 4, 7, and 10 must include a test of writing in which students are required to produce writings which are then scored by appropriate methods.

4. For the tests for grades 4 and 7, a score must be designated for each subject area tested, below which score a student's performance is deemed inadequate. The school districts shall provide appropriate remedial instruction to students who score below these levels.

5. All 11th grade students shall be required to take high school competency tests developed by the state board to test minimum student performance skills and competencies in reading, writing, and mathematics. Upon recommendation of the commissioner, the state board shall designate a passing score for each part of the high school competency test. In establishing passing scores, the state board shall consider any possible negative impact of the tests on minority students. A student

must earn a passing score on each part taken to qualify for a regular high school diploma. The commissioner shall recommend rules to the state board for the provision of test adaptations and modifications of procedures as necessary for students in exceptional education programs and for students who have limited English proficiency. The school districts shall provide appropriate remedial instruction to students who do not pass part of the competency test.

6. A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

The commissioner may design and implement student testing programs for other grade levels and subject areas, based on a census or sampling procedures designated by the commissioner to monitor educational achievement in the state.

(d) Obtain or develop a career planning assessment to be administered to students, at their option, in grades 7 and 10 to assist them in preparing for further education or entering the workforce. The statewide student assessment program must include career planning assessment as a free service to schools.

(e) Conduct ongoing research to develop improved methods of assessing student performance, including, without limitation, the use of technology to administer tests, the use of electronic transfer of data, the development of work-product assessments, and the development of process assessments.

(f) Conduct ongoing research and analysis of student achievement data, including, without limitation, monitoring trends in student achievement, identifying school programs that are successful, and analyzing correlates of school achievement.

(g) Provide technical assistance to school districts in the implementation of state and district testing programs and the use of the data produced pursuant to such programs.

(4) DISTRICT TESTING PROGRAMS.—Each district shall periodically assess student performance and achievement within each school of the district. Such assessment programs must be based upon local goals and objectives that are compatible with the state plan for education and that supplement the skills and competencies adopted by the State Board of Education. In grades 4 and 8, each district shall administer a nationally normed achievement test selected from a list approved by the state board; the data resulting from these tests must be provided to the Department of Education according to procedures specified by the commissioner. The commissioner may request achievement data for other grade levels as necessary.

Section 92. Subsection (1) of section 229.59, Florida Statutes, is amended to read:

229.59 Educational improvement projects.—

(1) Pursuant to rules adopted by the ~~Commissioner State Board~~ of Education, each district school board, or each principal through the district school board, may submit to the commissioner for approval a proposal for implementing an educational improvement project. Such proposals shall be developed with the assistance of district and school advisory councils and may address any or all of the following areas:

- (a) The improvement of school management;
- (b) The improvement of the district and school advisory councils;
- (c) School volunteers;
- (d) The professional development of teachers;
- (e) The restructuring of educational programs to meet the needs of diverse students; and
- (f) Global awareness.

Such projects may also address any other educational area which would be improved through the encouragement of closer working relationships among the school principal, the teachers, and the parents and other members of the community. Priority shall be given to proposals which provide for the inclusion of existing resources, such as district educational training funds, in the implementation of an educational improvement project.

Section 93. Subsection (1) of section 229.591, Florida Statutes, 1996 Supplement, is amended to read:

229.591 Comprehensive revision of Florida's system of school improvement and education accountability.—

(1) INTENT.—The Legislature recognizes that the children and youth of the state are its future and its most precious resource. To provide these developing citizens with the sound education needed to grow to a satisfying and productive adulthood, the Legislature intends that, by the year 2000, Florida establish a system of school improvement and education accountability based on the performance of students and educational programs. The intent of the Legislature is to provide clear guidelines, or a "Blueprint 2000," for achieving this purpose and for returning the responsibility for education to those closest to the students, that is the schools, teachers, and parents. The Legislature recognizes, however, its ultimate responsibility and that of the Governor, the Commissioner of Education, and the State Board of Education and other state policymaking bodies in providing the strong leadership needed to forge a new concept of school improvement and in making adequate provisions for a uniform system of free public schools as required by s. 1, Art. IX of the State Constitution. It is further the intent of the Legislature to build upon the foundation established by the Educational Accountability Act of 1976 and to implement a program of education accountability and school improvement based upon the achievement of state goals, recognizing the State Board of Education as the body corporate responsible for the supervision of the system of public education, the district school board as responsible for school and student performance, and the individual school as the unit for education accountability.

Section 94. Subsection (1), paragraphs (c) and (d) of subsection (3), and subsections (5) and (6) of section 229.592, Florida Statutes, 1996 Supplement, are amended to read:

229.592 Implementation of state system of school improvement and education accountability.—

(1) DEVELOPMENT.—It is the intent of the Legislature that every public school in the state shall have a school improvement plan, as required by s. 230.23(18), fully implemented and operational by the beginning of the 1993-1994 school year. Vocational standards considered pursuant to s. 239.229 shall be incorporated into the school improvement plan for each area technical center operated by a school board by the 1994-1995 school year, and area technical centers shall prepare school report cards incorporating such standards, pursuant to s. 230.23(18), for the 1995-1996 school year. In order to accomplish this, the Florida Commission on Education Reform and Accountability and the school districts and schools shall carry out the duties assigned to them by ss. 229.594 and 230.23(18), respectively. In addition, the following initial steps in program development shall be undertaken beginning June 1, 1991, and shall continue during the 1991-1992 school fiscal year:

(a) Each school shall conduct an initial needs assessment including separately each school within a school, magnet school, self-contained educational alternative center, or satellite center, and the results of the assessments shall be accompanied by a needs response plan and submitted to the Florida Commission on Education Reform and Accountability by November 1, 1991. The commissioner must provide a format for the needs assessments to the school board by June 1, 1991, and the local school board shall coordinate each needs assessment. The assessments shall be based on data from the 1990-1991 school year and shall address at least the following:

- 1.—The status of the school in relation to the general goals for education contained in s. 229.591;
- 2.—The academic status of students attending the school as reflected by test scores, dropout and same grade retention rates, the availability of upper-level courses in mathematics and science, the percentage of the school's enrollment and the number of completers by race and gender in upper-level mathematics and science courses, and the number of students entering postsecondary institutions;
- 3.—Student school participation characteristics including: attendance rates, the number of expulsions and suspensions, and the number of instances of corporal punishment;
- 4.—The economic status of the student body and area served by the school;
- 5.—The demographic characteristics of the student body and the faculty and staff of the school;

6.—The financial status of the school as reflected by per student expenditures for instruction and administration, and other appropriate measures; and

7.—Such other needs assessment indicators as may be determined by the individual school.

(b) Each area technical center operated by a school board shall conduct a needs assessment as part of the school improvement process. The results of the assessments shall be accompanied by a needs response plan and be submitted to the Florida Commission on Education Reform and Accountability by November 1, 1992. The commissioner shall provide a format for the needs assessments to the school boards by August 1, 1992, and the local school board shall coordinate each needs assessment. The first such assessment shall be based on data from the 1991-1992 school year and must address at least the following:

- 1.—The vocational standards articulated in s. 239.229.
- 2.—The financial status of the center as indicated by per student expenditures for instruction and administration, and other appropriate measures.
- 3.—Student completion and placement rates.
- 4.—A forecast of occupations indicating future workplace needs required over the next 5 years within the service area, based upon labor market supply and demand data and local economic conditions.
- 5.—Other such needs assessment indicators as may be determined by the center.

(c) The needs response plan for each school and the district shall generally describe proposed actions to reduce any needs identified by the needs assessment.

(d) The Commissioner of Education shall provide the school boards with the technical assistance necessary to conduct the school needs assessments.

(e) The Florida Commission on Education Reform and Accountability and the Department of Education shall review and analyze the needs assessment information received from the school boards and shall submit a summary report on the information to the Legislature by January 1, 1992, and shall provide, upon request, the needs assessment on any individual school. By November 1, 1991, the commission shall identify a core of performance standards addressing the state's most pressing educational problems for use in the analysis of the needs assessment information.

(3) COMMISSIONER.—The commissioner shall be responsible for implementing and maintaining a system of intensive school improvement and stringent education accountability.

(c) The annual feedback report shall be developed by the commission and the Department of Education. The format for this feedback shall be developed by the commission and recommended to the State Board of Education by January 1, 1992. The State Board of Education shall adopt a format for the feedback report.

(d) The commissioner and the commission shall review each school board's feedback report and submit its findings to the State Board of Education. If adequate progress is not being made toward implementing and maintaining a system of school improvement and education accountability, the State Board of Education shall direct the commissioner to prepare and implement a corrective action plan. The commissioner and State Board of Education shall monitor the development and implementation of the corrective action plan.

(5) STATE BOARD.—The State Board of Education shall adopt rules necessary to implement a state system of school improvement and education accountability. By September 1, 1992, the state board shall adopt standards for indicating progress toward the state education goals pursuant to s. 229.591(3). By September 1, 1993, the state board shall adopt rules providing guidelines for annual school reports. Such rules must shall be based on recommendations of the Commission on Education Reform and Accountability and must shall include, but need not be limited to, a requirement that each school report identify the annual Education Enhancement Trust Fund allocations to the district and the

school and how those allocations were used for educational enhancement and supporting school improvement.

(6) EXCEPTIONS TO LAW.—To facilitate innovative practices and to allow local selection of educational methods, *the commissioner may waive, upon the request of a school board, requirements of chapters 230 through 239 of the Florida School Code that relate to instruction and school operations, except those pertaining to civil rights, and student health, safety and welfare. The Commissioner of Education is not authorized to grant waivers for any provisions of law pertaining to the allocation and appropriation of state and local funds for public education; the election, compensation, and organization of school board members and superintendents; graduation and state accountability standards; financial reporting requirements; public meetings; public records; or due process hearings governed by chapter 120. Prior to approval, the Commissioner shall report pending waiver requests to the state board on a monthly basis, and shall, upon request of any state board member, bring a waiver request to the state board for consideration. If, within two weeks of receiving the report, no member requests that a waiver be considered by the state board, the Commissioner may act on the original waiver request. No later than January 1 of each year, the Commissioner shall report to the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House all approved waiver requests in the preceding year. 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 paragraphs (a) and (b) in abeyance has had on the school improvement process. It is the intent of the Legislature that statutes listed in paragraphs (a) and (b) be systematically repealed after being held in abeyance for 3 consecutive fiscal years.~~

(c) ~~The Legislature authorizes that the methods and requirements of the statutes listed in paragraph (a) for which a specific line item appropriation or a specific listing within a line item appropriation is contained and funded in the General Appropriations Act and the following statutes may be waived for any school board so requesting, provided the general statutory purpose of each section is met and the school board has submitted a written request to the commissioner for approval pursuant to this subsection: ss. 228.041(13) and (16); 229.602(5); 230.23(3), (4)(f) and (g), (6), (7)(a), (b), and (c), (11)(c), and (17); 231.095; 232.01; 232.04; 232.045; 232.245; 232.2462; 232.2463; 233.011; 233.34; 236.013(3) relating to the 36 hour limit; and 239.121. Graduation requirements in s. 232.246 must be met by demonstrating performance of intended outcomes for any course in the Course Code Directory unless if a waiver is from the requirements of s. 232.2462 has been approved by the commissioner based upon a need identified in a school improvement plan. In developing procedures for awarding credits based on performance outcomes, districts may request waivers from State Board of Education rules relating to curriculum frameworks and credits for courses and programs in the Course Code Directory. Credit awarded for a course or program beyond that allowed by the Course Code Directory counts shall count as credit for electives. Upon request by any school district, the commissioner shall evaluate and establish procedures for variations in academic credits awarded toward graduation by a high school offering six periods per day compared to those awarded by high schools operating on other schedules.~~

1. A school board may originate a request for waiver and submit the request to the commissioner if such a waiver is required to implement districtwide improvements.

2. A school board may submit a request to the commissioner for a waiver if such request is presented to the school board by a school advisory council established pursuant to s. 229.58 and if such a waiver is required to implement a school improvement plan required by s. 230.23(18). The school board shall report annually to the Florida Commission on Education Reform and Accountability, in conjunction with the feedback report required pursuant to subsection (3), the number of waivers requested by school advisory councils, the number of such waiver requests approved and submitted to the commissioner, and the number of such waiver requests not approved and not submitted to the commissioner. For each waiver request not approved, the school board shall report the statute or rule for which the waiver was requested, the rationale for the school advisory council request, and the reason the request was not approved.

3. When approved by the commissioner, a waiver requested *under pursuant to this paragraph is effective shall be* for a 5-year period.

(b)(d) ~~Notwithstanding the provisions of chapter 120 and for the purpose of implementing this subsection, the commissioner may waive State Board of Education rules if 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.~~

(c)(e) ~~The written request for waiver of statute or rule must shall indicate at least how the general statutory purpose will be met, how granting the waiver will assist schools in improving student outcomes related to the student performance standards adopted pursuant to subsection (5), and how student improvement will be evaluated and reported. In considering any waiver, the commissioner shall ensure protection of the health, safety, welfare, and civil rights of the students and protection of the public interest.~~

(d)(f) ~~Any request for a waiver which is not denied, or for which a request for additional information is not issued, within 21 days after receipt of the written request shall be deemed approved. Any waiver for which a timely request for additional information has been issued shall be deemed to be approved if a denial is not issued within 21 days after the commissioner's receipt of the specifically requested additional information. Upon denying or denial of a request for a waiver, the commissioner must shall state with particularity the grounds or basis for the denial. The commissioner shall report the specific statutes and rules for which waivers are requested and the number and disposition of such requests to the Florida Commission on Education Reform and Accountability for use in determining which statutes and rules stand in the way of school improvement.~~

Section 95. Subsections (3), (4), (5), and (6) of section 229.593, Florida Statutes, are amended to read:

229.593 Florida Commission on Education Reform and Accountability.—

(3) ~~The commission shall be appointed no later than 30 days after the effective date of this act. Recognized statewide organizations representing each interest enumerated in this section shall submit no fewer than two nor more than three nominees to the appropriate public official for consideration. The public officials shall appoint members representative of the ethnic, racial, gender, and economic population of the state. In the absence of nominees, the designated appointing authority shall appoint persons who otherwise meet the qualifications for appointment to the commission. The term of each appointed private citizen member shall be for 4 years; however, initially, the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Commissioner of Education shall each appoint at least one member for a 4 year term, one member for a 3 year term, and two members for 2 year terms. A vacancy shall be filled for the remainder of the unexpired term by the person who had appointment jurisdiction of the vacated member. Members shall serve until their successors are duly appointed. There shall be no limitation on successive appointments to the commission. Provisions of s. 11.611(8)(b) to the contrary notwithstanding, private citizen members shall be appointed as provided in this section and are shall not be subject to confirmation by the Senate. Members of the commission may be removed for cause by the appointing authority. Any member who, without~~

cause, fails to attend three consecutive meetings may be removed by the appointing authority.

~~(4) As soon as practicable after all members are appointed, the Commissioner of Education shall call an organizational meeting of the commission. Subsequent meetings shall be held as often as the commission deems necessary to carry out its duties and responsibilities.~~

~~(4)(5) The commission shall adopt internal organizational procedures or bylaws necessary for its efficient operation. The commission shall elect a vice chair annually, who shall chair the commission in the absence of the chair. The commission may appoint committees from its membership or may create such ad hoc advisory committees as it deems necessary. The commission shall clearly assign duties to each committee duties that are which shall be consistent with the statutory duties of the commission. At least one such committee must shall be created to address the development of performance standards consistent with the state education goals. Any committee is to shall serve the commission in a strictly advisory capacity and must shall have a commission member as chair.~~

~~(5)(6) Members of the commission shall serve without compensation but are shall be entitled to reimbursement for per diem and travel expenses incurred in the performance of their duties as provided in s. 112.061. Legislators are shall be entitled to receive travel and per diem expenses as provided by the Joint Legislative Management Committee for meetings of legislative committees. When appropriate, commission members who are parents are to shall receive a stipend for child care costs incurred while attending commission meetings.~~

Section 96. Subsection (1) of section 229.594, Florida Statutes, is amended to read:

229.594 Powers and duties of the commission.—

(1) The commission shall review and recommend procedures for a new system of school improvement and education accountability and recommend the repeal or modification of statutes, fiscal policies, and rules that stand in the way of school improvement. Specifically, the commission shall:

(a) Serve as an advisory body to oversee the development, establishment, implementation, and maintenance of a program of school improvement and education accountability based upon the achievement of state education goals. This responsibility shall include the following:

1. Holding public hearings, as ~~determined to be necessary~~, in various parts of the state. The purpose of these hearings ~~is shall be~~ to receive public comment on the status of education and suggestions regarding the establishment and implementation of a system of school improvement and education accountability. When feasible, alternative methods such as teleconferencing shall be employed to increase public involvement.

2. Observing the development and implementation of school improvement plans pursuant to s. 230.23(18). Particular attention shall be paid to ensuring the involvement of teachers, parents, and community in the development and implementation of individually prepared school improvement plans.

3. Involving the business community in the provision of needed training for school advisory councils, teachers, principals, district administrators, and school board members.

4. Annually recommending changes in statutes, rules, and policies needed to implement and maintain a system of school improvement and education accountability in the state.

(b) Review and, with assistance from the Department of Education, analyze results of school needs assessments submitted by district school boards ~~and, by January 1, 1992, submit a report of its findings to the Legislature.~~ The report shall include recommendations for changes in the school improvement and accountability required by s. 230.23(18) which are considered necessary as a result of the school needs assessments. The report shall also include a recommendation regarding the minimum number of credits, subjects, and courses that should be required by the state for regular and alternative high school diplomas; the number of hours of instruction required to receive a credit; the length of a high school day; and the number of periods per day for high schools.

(c) Recommend to the Legislature, ~~the and~~ State Board of Education, ~~and the Commissioner of Education~~, as appropriate, the components of a system of school improvement and accountability. Initial recommendations must be reviewed and revised as necessary annually and must include:

1. Performance standards for indicating state, school district, and school progress toward the state education goals and a definition of what shall be considered "adequate progress" toward meeting these performance standards. Effective June 1, 1993, such standards must incorporate the provisions of s. 239.229.

2. Methods for measuring state, school district, and school progress toward the goals. These assessment methods must include the most effective and efficient procedures available from the current system of assessment and alternative and new assessment practices.

3. Methods for public reporting on the progress toward the goals by the state, school districts, and individual schools. Emphasis shall be placed on reporting individual school improvement and progress, and comparisons between schools shall be minimized. Methods for reporting the status of children and families and community services available in each school district to help children and families in need shall also be developed.

4. Effective use of existing methods for recognizing schools and development of necessary additional methods to recognize schools that meet or make adequate progress toward the education goals. The commission shall also consider the development of incentives including financial incentives for schools that make exceptional progress toward the education goals.

5. Guidelines that may be adopted as rule ~~and used~~ by the State Board of Education, ~~or the Commissioner of Education~~, and the school board in determining the action for any school that does not improve after 3 years of assistance and intervention, including commission responsibility in recommending action for said schools. The guidelines ~~must shall~~ be stringent and ~~must shall~~ ensure that the school is not permitted to continue serving students in a less than adequate manner.

If in the opinion of the commission an adequate system of accountability is in place to protect the public interest, the commission may recommend to the Legislature the repeal or revision of laws, including fiscal policies, and to the State Board of Education ~~and the Commissioner of Education~~ the repeal or revision of rules, which in the opinion of the commission stand in the way of school improvement. The commission may defer any or all recommendations for repeal or revision of laws and rules until such time as it determines an adequate system of accountability ~~is to be~~ established and implemented.

Section 97. Subsection (8) of section 229.602, Florida Statutes, is amended to read:

229.602 Florida private sector and education partnerships.—

(8) Partnership ~~vocational career~~ education programs shall be those job-preparatory ~~vocational career~~ education programs offered through signed partnership agreements between area technical centers and business, industry, or apprenticeship committees. Partnership ~~vocational career~~ education programs are limited to:

(a) Apprenticeship programs approved pursuant to chapter 446.

(b) Cooperative education programs where instruction is provided, including required academic courses and related vocational instruction, by alternation of study in school with a job in any occupational field, provided that the two experiences must be planned and supervised by the school and employers so that each contributes to the student's education and employability.

(c) Courses provided through the area technical center in which the sole instructor is a full-time salaried employee of a business or industry whose teaching services are provided free to the school district, thus allowing the school district to provide the course at a lower cost per pupil.

Section 98. Section 229.75, Florida Statutes, is amended to read:

229.75 Department under direction of state board.—The Department of Education shall act as an administrative and supervisory agency

under the *policy* direction of the State Board of Education. ~~The state board and its staff shall comprise the department.~~

Section 99. Section 229.76, Florida Statutes, is amended to read:

229.76 Functions of department.—The department ~~is to shall~~ be located in the offices of the Commissioner of Education, ~~shall operate under the direction and control of the state board~~ and shall assist it in providing professional leadership and guidance, and in carrying out the policies, procedures, and duties authorized by law or by the board or found necessary by it to attain the purposes and objectives of the school code.

Section 100. Section 229.771, Florida Statutes, is amended to read:

229.771 Removal from office.—The ~~State Board of Education department~~ shall remove from office for cause any person appointed by the state board under the provisions of the school code or any subordinate school officer. ~~Cause for such removal shall be~~ Incompetency, immorality, misconduct in office, gross insubordination, or willful neglect of duty ~~constitutes cause for such removal~~. Notice and hearing ~~must shall~~ be provided pursuant to chapter 120.

Section 101. Paragraphs (b) and (c) of subsection (3), paragraph (a) of subsection (4), and subsection (5) of section 229.805, Florida Statutes, are amended to read:

229.805 Educational television.—

(3) POWERS OF DEPARTMENT OF EDUCATION.—

(b) The department shall provide through educational television and other electronic media a means of extending educational services to all the state system of public education, except the State University System as defined in s. 240.2011, which provision by the department shall be limited by paragraph (c) and by s. 229.8051(1). The department shall recommend to the ~~Commissioner of Education state board~~ rules and regulations necessary to provide such services.

(c) The department is authorized to provide equipment, funds, and other services to extend and update both the existing and the proposed educational television and radio systems of tax-supported and nonprofit, corporate-owned facilities. All stations funded must be qualified by the Corporation for Public Broadcasting. New stations eligible for funding shall provide a first service to an audience that is not currently receiving a broadcast signal or provide a significant new program service as defined by ~~Commissioner State Board~~ of Education rules. Funds appropriated to the department for educational television and funds appropriated to the department for educational radio may be used by the department for either educational television or educational radio, or for both.

(4) PROHIBITED USE, PENALTY.—

(a) None of the facilities, plant, or personnel of any educational television system ~~that which~~ is supported in whole or in part by state funds shall be used directly or indirectly for the promotion, advertisement, or advancement of any political candidate for any municipal, county, legislative, congressional, or state office. However, fair, open, and free discussion between political candidates for municipal, county, legislative, congressional, or state office may be permitted in order to help materially reduce the excessive cost of campaigns and to ensure that the citizens of this state shall be fully informed about such issues and candidates in such campaigns. The above provisions ~~shall~~ apply to the advocacy for, or opposition to, any specific program, existing or proposed, of governmental action which shall include, but shall not be limited to, constitutional amendments, tax referenda, and bond issues. The provisions of this paragraph shall be in accordance with reasonable rules and regulations prescribed by the ~~Commissioner State Board~~ of Education or the Board of Regents, whichever has authority in the premises.

(5) DUTY OF DEPARTMENT OF EDUCATION.—The Department of Education ~~is shall~~ be responsible for identifying the needs of the state system of public education as they relate to the development and production of materials used in instruction. When such identified needs are ~~considered deemed~~ to be best satisfied by the production of new materials, the department ~~may shall~~ be empowered to commission or contract for the production of such materials. The ~~Commissioner State Board~~ of Education shall adopt and prescribe rules and regulations for the proper enforcement and carrying out of these provisions.

Section 102. Subsections (1) and (3) of section 229.8051, Florida Statutes, are amended to read:

229.8051 Public broadcasting program system.—

(1) There is created a public broadcasting program system for the state. ~~The Department of Education shall administer~~ this program system ~~shall be administered by the Department of Education~~ pursuant to policies adopted by the ~~Commissioner State Board~~ of Education. ~~This program system must and shall~~ complement and share resources with the instructional programming service of the Department of Education and educational UHF, VHF, ITFS, and FM stations in the state. ~~The This~~ program system ~~must shall~~ include:

(a) Support for existing Corporation for Public Broadcasting qualified program system educational radio and television stations and new stations meeting Corporation for Public Broadcasting qualifications and providing a first service to an audience that does not currently receive a broadcast signal or providing a significant new program service as defined by ~~rule by the Commissioner State Board~~ of Education rules.

(b) Maintenance of quality broadcast capability for educational stations ~~that which~~ are part of the program system.

(c) Interconnection of all educational stations ~~that which~~ are part of the program system for simultaneous broadcast and of such stations with all universities and other institutions as necessary for sharing of resources and delivery of programming.

(d) Establishment and maintenance of a capability for statewide program distribution with facilities and staff, provided such facilities and staff complement and strengthen existing or future educational television and radio stations in accordance with paragraph (a) and s. 229.805(3)(c).

(e) Provision of both statewide programming funds and station programming support for educational television and educational radio to meet statewide priorities. Priorities for station programming need not be the same as priorities for programming to be used statewide. Station programming may include, but shall not be limited to, citizens' participation programs, music and fine arts programs, coverage of public hearings and governmental meetings, equal air time for political candidates, and other public interest programming.

(3) The ~~Commissioner State Board~~ of Education shall adopt rules for the proper enforcement and carrying out of these provisions.

Section 103. Subsection (1) of section 230.03, Florida Statutes, is amended to read:

230.03 Management, control, operation, administration, and supervision.—The district school system ~~must shall~~ be managed, controlled, operated, administered, and supervised as follows:

(1) DISTRICT SYSTEM.—The district school system shall be considered as a part of the state system of public education. All actions of district school officials shall be consistent and in harmony with state laws and with rules and minimum standards of the state board ~~and the commissioner~~. District school officials, however, shall have the authority to provide additional educational opportunities, as desired, which are authorized, but not required, by law or by the district school board.

Section 104. Subsections (2) and (5) of section 230.22, Florida Statutes, are amended to read:

230.22 General powers of school board.—The school board, after considering recommendations submitted by the superintendent, shall exercise the following general powers:

(2) ADOPT RULES AND REGULATIONS.—The school board shall adopt such rules and regulations to supplement those prescribed by the state board ~~and the commissioner~~ as in its opinion will contribute to the more orderly and efficient operation of the district school system.

(5) PERFORM DUTIES AND EXERCISE RESPONSIBILITY.—The school board may perform those duties and exercise those responsibilities which are assigned to it by law or by regulations of the state board ~~or the commissioner~~ and, in addition thereto, those which it may find to be necessary for the improvement of the district school system in carrying out the purposes and objectives of the school code. The Legislature

recognizes the necessity for well informed school board members and the benefits to education that may be obtained through board member participation in professional development and training seminars and related activities at the district, state, and national levels.

Section 105. Paragraph (m) of subsection (4), paragraphs (b) and (d) of subsection (9), paragraphs (a) and (b) of subsection (11), and subsections (12), (14), and (16) of section 230.23, Florida Statutes, 1996 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:

(4) ESTABLISHMENT, ORGANIZATION, AND OPERATION OF SCHOOLS.—Adopt and provide for the execution of plans for the establishment, organization, and operation of the schools of the district, as follows:

(m) Exceptional students.—Provide for an appropriate program of special instruction, facilities, and services for exceptional students as prescribed by the state board as acceptable, including provisions that:

1. The school board provide the necessary professional services for diagnosis and evaluation of exceptional students.

2. The school board provide the special instruction, classes, and services, either within the district school system, in cooperation with other district school systems, or through contractual arrangements with approved nonpublic schools or community facilities which meet standards established by the ~~commissioner~~ state board.

3. The school board annually provide information describing the Florida School for the Deaf and the Blind and all other programs and methods of instruction available to the parent or guardian of a sensory-impaired student.

4. The school board, once every 3 years, submit to the department its proposed procedures for the provision of special instruction and services for exceptional students.

5. No student be given special instruction or services as an exceptional student until after he or she has been properly evaluated, classified, and placed in the manner prescribed by rules of the ~~commissioner~~ state board. The parent or guardian of an exceptional student evaluated and placed or denied placement in a program of special education shall be notified of each such evaluation and placement or denial. Such notice shall contain a statement informing the parent or guardian that he or she is entitled to a due process hearing on the identification, evaluation, and placement, or lack thereof. Such hearings shall be exempt from the provisions of ss. 120.569, 120.57, and 286.011, and any records created as a result of such hearings shall be confidential and exempt from the provisions of s. 119.07(1), to the extent that the ~~commissioner~~ state board adopts rules establishing other procedures. The hearing ~~must~~ shall be conducted by an administrative law judge from the Division of Administrative Hearings of the Department of Management Services. The decision of the administrative law judge shall be final, except that any party aggrieved by the finding and decision rendered by the administrative law judge shall have the right to bring a civil action in the circuit court. In such an action, the court shall receive the records of the administrative hearing and shall hear additional evidence at the request of either party. In the alternative, any party aggrieved by the finding and decision rendered by the administrative law judge shall have the right to request an impartial review of the administrative law judge's order by the district court of appeal as provided by s. 120.68. Notwithstanding any law to the contrary, during the pendency of any proceeding conducted pursuant to this section, unless the district school board and the parents or guardian otherwise agree, the child shall remain in his or her then-current educational assignment or, if applying for initial admission to a public school, shall be assigned, with the consent of the parents or guardian, in the public school program until all such proceedings have been completed.

6. In providing for the education of exceptional students, the superintendent, principals, and teachers shall utilize the regular school facilities and adapt them to the needs of exceptional students to the maximum extent appropriate. Segregation of exceptional students shall occur only if the nature or severity of the exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

7. The principal of the school in which the student is taught shall keep a written record of the case history of each exceptional student showing the reason for the student's withdrawal from the regular class in the public school and his or her enrollment in or withdrawal from a special class for exceptional students. This record shall be available for inspection by school officials at any time.

8. The district school board shall establish the amount to be paid by the district school board for each individual exceptional student contract with a nonpublic school.

(9) SCHOOL PLANT.—Approve plans for locating, planning, constructing, sanitating, insuring, maintaining, protecting, and condemning school property as prescribed in chapter 235 and as follows:

(b) Sites, buildings, and equipment.—

1. Select and purchase school sites, playgrounds, and recreational areas located at centers at which schools are to be constructed, of adequate size to meet the needs of pupils to be accommodated;

2. Approve the proposed purchase of any site, playground, or recreational area for which district funds are to be used;

3. Expand existing sites;

4. Rent buildings when necessary;

5. Enter into leases or lease-purchase arrangements, in accordance with the requirements and conditions provided in s. 235.056(2), with private individuals or corporations for the rental of necessary grounds and educational facilities for school purposes or of educational facilities to be erected for school purposes. Current or other funds authorized by law may be used to make payments under a lease-purchase agreement. Notwithstanding any other statutes, if the rental is to be paid from funds received from ad valorem taxation and the agreement is for a period greater than 12 months, an approving referendum must be held. The provisions of such contracts, including building plans, shall be subject to approval by the Department of Education, and no such contract shall be entered into without such approval. As used in this section, "educational facilities" means the buildings and equipment which are built, installed, or established to serve educational purposes and which may lawfully be used. The ~~Commissioner State Board~~ of Education ~~may adopt~~ is authorized to promulgate such rules as ~~are~~ it deems necessary to implement the provisions hereof;

6. Provide for the proper supervision of construction;

7. Make or contract for additions, alterations, and repairs on buildings and other school properties;

8. Ensure that all plans and specifications for buildings provide adequately for the safety and well-being of pupils, as well as for economy of construction by having such plans and specifications submitted to the Department of Education for approval; and

9. Provide furniture, books, apparatus, and other equipment necessary for the proper conduct of the work of the schools.

(d) Insurance of school property.—Carry insurance on every school building in all school plants including contents, boilers, and machinery, except buildings of three classrooms or less which are of frame construction and located in a tenth class public protection zone as defined by the Florida Inspection and Rating Bureau, and on all school buses and other property under the control of the school board or title to which is vested in the school board, except as exceptions may be authorized under regulations of the ~~commissioner~~ state board.

(11) RECORDS AND REPORTS.—Provide for the keeping of all necessary records and the making of all needed or required reports, as follows:

(a) Forms, blanks, and reports.—Require all employees to keep accurately all records and to make promptly in the proper form all reports required by law or by regulations of the state board ~~or of the commissioner~~.

(b) Reports to the department.—Require that the superintendent prepare all reports to the Department of Education that may be required

by law or regulations of the state board *or of the commissioner*; see that all such reports are promptly transmitted to the department; withhold the further payment of salary to the superintendent or employee when notified by the department that he or she has failed to file any report within the time or in the manner prescribed; and continue to withhold the salary until the school board is notified by the department that such report has been received and accepted; provided, that when any report has not been received by the date due and after due notice has been given to the school board of that fact, the department, if it deems necessary, may require the report to be prepared by a member of its staff, and the school board shall pay all expenses connected therewith. Any member of the school board who is responsible for the violation of this provision is subject to suspension and removal.

(12) COOPERATION WITH OTHER DISTRICT SCHOOL BOARDS.—May establish and participate in educational consortia *that which* are designed to provide joint programs and services to cooperating school districts, consistent with the provisions of s. 4(b), Art. IX of the State Constitution. The *Commissioner State Board* of Education shall adopt rules providing for the establishment, funding, administration, and operation of such consortia.

(14) ENFORCEMENT OF LAW AND RULES AND REGULATIONS.—Require that all laws and rules and regulations of the state board, *of the commissioner*, or of the school board are properly enforced.

(16) SCHOOL LUNCH PROGRAM.—Assume such responsibilities and exercise such powers and perform such duties as may be assigned to it by law or as may be required by regulations of the *commissioner state board* or as in the opinion of the school board are necessary to assure school lunch services, consistent with needs of pupils; effective and efficient operation of the program; and the proper articulation of the school lunch program with other phases of education in the district.

Section 106. Subsection (8) of section 230.2305, Florida Statutes, 1996 Supplement, is amended to read:

230.2305 Prekindergarten early intervention program.—

(8) MONITORING AND TECHNICAL ASSISTANCE.—~~Pursuant to s. 229.565(5)~~; the Commissioner of Education shall monitor each district prekindergarten early intervention program at least annually to determine compliance with the district plan and the provisions of this section. If a program is not brought into compliance within 3 months after the commissioner's evaluation citing specific deficiencies, the commissioner must withhold such funds as have been allocated to the school board for its prekindergarten early intervention program and which have not yet been released. The department shall develop manuals and guidelines for the development of district plans and shall provide ongoing technical assistance to ensure that each district program maintains high standards of quality and effectiveness.

Section 107. Paragraph (e) of subsection (3) and paragraph (b) of subsection (7) of section 230.2316, Florida Statutes, 1996 Supplement, are amended to read:

230.2316 Dropout prevention.—

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

(e) "Second chance schools" means school district programs provided through cooperative agreements between the Department of Juvenile Justice, private providers, state or local law enforcement agencies, or other state agencies for students deemed habitual truants as defined in s. 228.041(28), or for students who have been disruptive or violent or who have committed serious offenses. As partnership programs, second chance schools are eligible for waivers from the Commissioner of Education to chapters 230-235 and 239 and ~~State Board of Education~~ rules *of the commissioner* that prevent the provision of appropriate educational services to violent, severely disruptive, and delinquent students in small nontraditional settings and in court-adjudicated settings.

(7) STAFF DEVELOPMENT.—

(b) The district school boards and the department may establish a summer inservice training program for teachers and administrators which may be provided by district school boards or individual schools and which shall include, but not be limited to, instruction focusing on treating students with respect and enhancing student self-esteem, de-

veloping positive in-school intervention methods for misbehaving students, establishing strategies to involve students in classroom and school management and in reducing student misconduct, conducting student and parent conferences, and creating "student-friendly" environments at schools. Instructional personnel may use successful participation in a summer inservice training program established pursuant to this paragraph for certification extension or for adding a new certification area if the district has an approved add-on certification program, pursuant to ~~State Board of Education~~ rules *of the commissioner*.

Section 108. Subsection (6) of section 230.23166, Florida Statutes, is amended to read:

230.23166 Teenage parent programs.—

(6) The *Commissioner State Board* of Education shall adopt rules necessary to implement the provisions of this section.

Section 109. Paragraphs (b) and (d) of subsection (2) of section 230.2318, Florida Statutes, 1996 Supplement, are amended to read:

230.2318 School resource officer program.—

(2) LOCAL SCHOOL RESOURCE OFFICER PROGRAM PLANS; APPROVAL BY COMMISSIONER; CRITERIA AND RESTRICTIONS.—

(b) The commissioner shall review all proposed local school resource officer program plans and shall approve those plans which meet the purposes, intent, and requirements of this section and the rules adopted by the *commissioner State Board of Education* pursuant to this section.

(d) ~~The commissioner may adopt State Board of Education~~ shall have ~~the authority to promulgate~~ rules to implement the statewide school resource officer program as established in this section.

Section 110. Subsections (4), (5), and (6) of section 230.32, Florida Statutes, are 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:

(4) RECOMMEND AND EXECUTE RULES AND REGULATIONS.—Prepare and organize by subjects and submit to the school board for adoption such rules and regulations to supplement those adopted by the state board *or the commissioner* as, in the superintendent's opinion, will contribute to the efficient operation of any aspect of education in the district. When rules and regulations have been adopted, the superintendent shall see that they are executed.

(5) RECOMMEND AND EXECUTE MINIMUM STANDARDS.—From time to time to prepare, organize by subjects, and submit to the school board for adoption such minimum standards relating to the operation of any phase of the district school system as are needed to supplement those adopted by the state board *or the commissioner* and as will contribute to the efficient operation of any aspect of education in the district; to see that minimum standards adopted by the school board *and the commissioner* are observed.

(6) PERFORM DUTIES AND EXERCISE RESPONSIBILITIES.—Perform such duties and exercise such responsibilities as are assigned to the superintendent by law and by regulations of the state board *and of the commissioner*.

Section 111. Subsection (1) of section 230.321, Florida Statutes, is amended to read:

230.321 Superintendents employed under Art. IX, State Constitution.—

(1) In every district authorized to employ a superintendent of schools under Art. IX of the State Constitution, the superintendent shall be the executive officer of the school board and shall not be subject to the provisions of law, either general or special, relating to tenure of employment or contracts of other school personnel. The superintendent's duties relating to the district school system shall be as provided by law and rules of the State Board of Education *and of the Commissioner of Education*.

Section 112. Paragraph (j) of subsection (6), paragraph (b) of subsection (13), and subsections (15) and (24) of section 230.33, Florida Statutes, 1996 Supplement, are amended to read:

230.33 Duties and responsibilities of superintendent.—The superintendent shall exercise all powers and perform all duties listed below and elsewhere in the law; provided, that in so doing he or she shall advise and counsel with the school board. The recommendations, nominations, proposals, and reports required by law and rule to be made to the school board by the superintendent shall be either recorded in the minutes or shall be made in writing, noted in the minutes, and filed in the public records of the board. It shall be presumed that, in the absence of the record required in this paragraph, the recommendations, nominations, and proposals required of the superintendent were not contrary to the action taken by the school board in such matters.

(6) ESTABLISHMENT, ORGANIZATION, AND OPERATION OF SCHOOLS, CLASSES, AND SERVICES.—Recommend the establishment, organization, and operation of such schools, classes, and services as are needed to provide adequate educational opportunities for all children in the district, including:

(j) School lunches.—Recommend plans for the establishment, maintenance, and operation of a school lunch program consistent with state laws and regulations of the ~~commissioner state board~~, and to administer and supervise such services.

(13) RECORDS AND REPORTS.—Recommend such records as should be kept in addition to those prescribed by rules of the state board or by the department; prepare forms for keeping such records as are approved by the school board; see that such records are properly kept; and make all reports that are needed or required, as follows:

(b) Reports to the department.—Prepare, for the approval of the school board, all reports that may be required by law or rules of the state board ~~or of the commissioner~~ to be made to the department and transmit promptly all such reports, when approved, to the department, as required by law. If any such reports are not transmitted at the time and in the manner prescribed by law or by state board rules, the salary of the superintendent ~~must shall~~ be withheld until ~~the such~~ report has been properly submitted. Unless otherwise provided by regulations of the state board, the annual report on attendance and personnel ~~is shall~~ be due on or before July 1, and the annual school budget and the report on finance ~~are shall~~ be due on the date prescribed by the ~~commissioner state board~~.

(15) ENFORCEMENT OF LAWS AND RULES.—Require that all laws and rules of the state board, as well as supplementary rules of the school board, are properly observed and report to the school board any violation ~~that which~~ the superintendent does not succeed in having corrected.

(24) OTHER DUTIES AND RESPONSIBILITIES.—Perform such other duties as ~~are may~~ be assigned to the superintendent by law or by rules of the state board ~~or of the commissioner~~.

Section 113. Subsection (2) of section 230.64, Florida Statutes, is amended to read:

230.64 Area technical center part of district school system; minimum standards.—

(2) ~~COMMISSIONER STATE BOARD SHALL PRESCRIBE MINIMUM STANDARDS.~~—The ~~commissioner state board~~ shall prescribe minimum standards ~~that which~~ must be met before an area technical center is organized, acquired or operated, and ~~that which~~ will assure that the purposes of the center are attained.

Section 114. Subsection (9) of section 230.71, Florida Statutes, is amended to read:

230.71 Intergenerational school volunteer programs.—

(9) RULES.—The ~~Commissioner State Board~~ of Education shall adopt rules necessary to implement ~~the provisions~~ of this section.

Section 115. Paragraph (e) of subsection (1) and subsection (2) of section 232.01, Florida Statutes, are amended to read:

232.01 Regular school attendance required between ages of 6 and 16; permitted at age of 5; exceptions.—

(1)

(e) Beginning with the 1991-1992 school year and consistent with rules adopted by the ~~commissioner state board~~, children with disabilities who have attained the age of 3 years shall be eligible for admission to public special education programs and for related services under rules adopted by the school board. Exceptional children who are deaf or hard of hearing, visually impaired, dual sensory impaired, severely physically handicapped, trainable mentally handicapped, or profoundly handicapped, or who have established conditions, or exhibit developmental delays, below age 3 may be eligible for special programs; or, if enrolled in other prekindergarten or day care programs, they may be eligible for supplemental instruction. Rules for the identification of established conditions for children birth through 2 years of age and developmental delays for children birth through 5 years of age must be adopted by the ~~Commissioner State Board~~ of Education.

(2) The ~~Commissioner State Board~~ of Education may adopt rules under which pupils not meeting the entrance age may be transferred from another state if their parents or guardians have been legal residents of that state.

Section 116. Section 232.23, Florida Statutes, 1996 Supplement, is amended to read:

232.23 Procedures for maintenance and transfer of pupil records.—

(1) Each principal shall maintain a permanent cumulative record for each pupil enrolled in a public school. Such record shall be maintained in the form, and contain all data, prescribed by ~~rule by the Commissioner rules of the State Board~~ of Education. The cumulative record is confidential and exempt from the provisions of s. 119.07(1) and ~~is shall~~ be open to inspection only as provided in s. 228.093.

(2) The procedure for transferring and maintaining records of pupils who transfer from school to school shall be prescribed by regulations of the ~~commissioner state board~~.

(3) Procedures relating to the acceptance of transfer work and credit for pupils shall be prescribed by ~~rule by the Commissioner rules of the State Board~~ of Education.

Section 117. Subsection (1) of section 232.2468, Florida Statutes, 1996 Supplement, is amended to read:

232.2468 Graduation, habitual truancy, and dropout rates.—

(1) DEFINITION.—

(a) The term "graduation rate" means the percentage calculated by dividing the number of entering 9th graders into the number of students who receive, 4 years later, a high school diploma, a special diploma, or a certificate of completion, as provided for in s. 232.246, or who receive a special certificate of completion, as provided in s. 232.247, and students 19 years of age or younger who receive a general equivalency diploma, as provided in s. 229.814. The number of 9th grade students used in the calculation of a graduation rate for this state shall be students enrolling in the grade for the first time.

(b) The term "habitual truancy rate" means the annual percentage of students in membership within the age of compulsory school attendance pursuant to s. 232.01 who are classified as habitual truants as defined in s. 228.041(28).

(c) The term "dropout rate" means the annual percentage calculated by dividing the number of students over the age of compulsory school attendance, pursuant to s. 232.01, at the time of the fall membership count, into the number of students who withdraw from school during a given school year and who are classified as dropouts pursuant to s. 228.041(29).

The ~~Commissioner State Board~~ of Education may adopt rules to implement this subsection.

Section 118. Section 232.247, Florida Statutes, is amended to read:

232.247 Special high school graduation requirements for certain exceptional students.—A student who has been properly classified, in accordance with rules established by the *commissioner state board*, as “educable mentally handicapped,” “trainable mentally handicapped,” “hearing impaired,” “specific learning disabled,” “physically or language impaired,” or “emotionally handicapped” shall not be required to meet all requirements of s. 232.246 and shall, upon meeting all applicable requirements prescribed by the school board pursuant to s. 232.245, be awarded a special diploma in a form prescribed by the *commissioner state board*; ~~provided, however, that such special graduation requirements prescribed by the school board must shall include minimum graduation requirements as prescribed by the commissioner state board.~~ Any such student who meets all special requirements of the district school board for ~~his or her~~ exceptionality, but is unable to meet the appropriate special state minimum requirements, shall be awarded a special certificate of completion in a form prescribed by the *commissioner state board*. A student who has been properly classified as “profoundly handicapped” and who meets the special requirements of the district school board for a special diploma in accordance with requirements for any exceptional student identified in this section shall be awarded a special diploma; however, such a student shall *alternatively* ~~alternately~~ be eligible for a special certificate of completion, in a form prescribed by the *commissioner state board*, if all school requirements for students who are “profoundly handicapped” have been met. ~~Nothing provided in this section.~~ However, ~~this section does not shall be construed to limit or restrict the right of an exceptional student solely to a special diploma or special certificate of completion.~~ Any such student shall, upon proper request, be afforded the opportunity to fully meet all requirements of s. 232.246 through the standard procedures established therein and thereby to qualify for a standard diploma upon graduation.

Section 119. Subsection (1) of section 232.25, Florida Statutes, 1996 Supplement, is amended to read:

232.25 Pupils subject to control of school.—

(1) Subject to law and rules and regulations of the *commissioner state board* and of the school board, each pupil enrolled in a school shall:

- (a) During the time she or he is being transported to or from school at public expense;
- (b) During the time she or he is attending school;
- (c) During the time she or he is on the school premises participating with authorization in a school-sponsored activity; and
- (d) During a reasonable time before and after a pupil is on the premises for attendance at school or for authorized participation in a school-sponsored activity, and only when on the premises,

be under the control and direction of the principal or teacher in charge of the school, and under the immediate control and direction of the teacher or other member of the instructional staff or of the bus driver to whom such responsibility may be assigned by the principal. However, the *commissioner state board* or the district school board may, by rules and regulations, subject each pupil to the control and direction of the principal or teacher in charge of the school during the time she or he is otherwise en route to or from school or is presumed by law to be attending school.

Section 120. Subsection (5) of section 232.303, Florida Statutes, is amended to read:

232.303 Interagency student services.—

(5) The ~~Commissioner State Board~~ of Education and the Department of Children and Family Health and Rehabilitative Services ~~may be authorized to adopt rules to carry out the intent of this section.~~

Section 121. Paragraph (a) of subsection (3) of section 232.435, Florida Statutes, is amended to read:

232.435 Extracurricular athletic activities; athletic trainers.—

(3)(a) To the extent practicable, a school district program should include the following employment classification and advancement scheme:

1. Teacher apprentice trainer I.—To qualify as a teacher apprentice trainer I, a person must possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 231.17, be certified in first aid and cardiopulmonary resuscitation, and have earned a minimum of 6 semester hours or the equivalent number of inservice education points in the basic prevention and care of athletic injuries.

2. Teacher apprentice trainer II.—To qualify as a teacher apprentice trainer II, a person must meet the requirements of teacher apprentice trainer I and also have earned a minimum of 15 additional semester hours or the equivalent number of inservice education points in such courses as anatomy, physiology, use of modalities, nutrition, counseling, and other courses approved by the ~~Commissioner State Board~~ of Education.

3. Teacher athletic trainer.—To qualify as a teacher athletic trainer, a person must meet the requirements of teacher apprentice trainer II, be certified by the Department of Education or a nationally recognized athletic trainer association, and perform one or more of the following functions: preventing athletic injuries; recognizing, evaluating, managing, treating, and rehabilitating athletic injuries; administering an athletic training program; and educating and counseling athletes.

Section 122. Paragraph (a) of subsection (2) and subsections (5) and (6) of section 233.011, Florida Statutes, are amended to read:

233.011 Accountability in curriculum, educational instructional materials, and testing.—

(2)(a) Subject to State Board of Education review and approval, the Department of Education shall develop, ~~by April 1, 1985,~~ guidelines for the identification or development, evaluation, oversight, and revision of:

1. Curriculum frameworks as specified in subsection (3).
2. Student performance standards as specified in ss. 232.2454(1) and 229.565(1) ~~and (2).~~
3. Model standards and procedures for the adoption of state and district instructional materials and software consistent with curriculum frameworks and student performance standards as specified in this paragraph. Such models shall provide the diverse student populations of the state with the highest quality instructional materials and software in the most cost-effective manner possible. Such models shall include a component to ensure the production of instructional materials and software by the state, or a consortium of states, when economical or superior quality instructional materials or software are unavailable from commercial sources by special contract.

4. Model standards and procedures for state and district adoption, analyses, and use of nationally normed student achievement tests or other nationally normed assessment instruments, as specified in subsection (4).

5. Criteria and procedures to determine the individual school programs ~~that which~~ are most deficient in student performance. Such criteria and procedures ~~must shall~~ take into account testing results under the provisions of ss. 229.565 and 232.2454, and subsection (4).

6. Model training procedures for state-level and district-level personnel assigned responsibilities for evaluating and selecting instructional materials, software, and norm-referenced achievement measures.

7. Standards for effective evaluation and comparable evaluation and testing procedures among districts.

(5) The ~~Commissioner State Board~~ of Education ~~may adopt is authorized to develop~~ rules necessary to implement the provisions of the Florida Accountability in Curriculum, Educational Instructional Materials, and Testing Act (FACET) of 1984.

(6) The commissioner, no later than November 1 of each year, shall transmit to ~~the State Board of Education;~~ the President of the Senate, the Speaker of the House of Representatives, and the chairs of the Senate and House committees on public school education an appraisal of the programs and activities as set forth in the Florida Accountability in Curriculum, Educational Instructional Materials, and Testing Act (FACET) of 1984 as to the effectiveness, efficiency, and utilization of resources, including a statement of the overall program for the coming

year, the recommended level of funding for the overall program, and any other recommendations deemed appropriate by the commissioner. *These Such* recommendations *must shall* include, but *need not be limited to*, necessary modifications of statutes, *rules of the commissioner state board* rules, and administrative procedures to implement the provisions of said sections.

Section 123. Section 233.015, Florida Statutes, is amended to read:

233.015 Purge of listed courses not taught for 5 years; rules.—The *Commissioner State Board* of Education shall adopt rules *that which* provide for the conduct of regularly scheduled purges of courses *that are* listed in the statewide course numbering system or institutional catalog *but that* have not been taught at the institution for the preceding 5 years. *These Such* rules *must shall* include waiver provisions *that allow* for course continuation *if in the event that* an institution has reasonable cause for having not offered a course within the 5-year limit and an expectation that the course will be offered again within the following 5 years.

Section 124. Subsection (2) of section 233.056, Florida Statutes, is amended to read:

233.056 Instructional programs for visually impaired students and deaf or hard-of-hearing students.—

(2) The unit shall be operated either directly by the Division of Public Schools or through a contractual agreement with a local education agency, under rules adopted by the *Commissioner State Board* of Education.

Section 125. Subsection (6) of section 233.058, Florida Statutes, is amended to read:

233.058 English language instruction for limited English proficient students.—

(6) The *Commissioner State Board* of Education shall adopt rules for the purpose of implementing this section.

Section 126. Subsection (1) of section 233.061, Florida Statutes, is amended to read:

233.061 Required instruction.—

(1) Members of the instructional staff of the public schools, subject to the rules and regulations of the *commissioner, the state board, and of the school board*, shall teach efficiently and faithfully, using the books and materials required, following the prescribed courses of study, and employing approved methods of instruction the following:

(a) The content of the Declaration of Independence and how it forms the philosophical foundation of our government;

(b) The arguments in support of adopting our republican form of government, as they are embodied in the most important of the Federalist Papers;

(c) The essentials of the United States Constitution and how it provides the structure of our government;

(d) Flag education, including proper flag display and flag salute;

(e) The elements of civil government;

(f) The history of the Holocaust (1933-1945), the systematic, planned annihilation of European Jews and other groups by Nazi Germany, a watershed event in the history of humanity, to be taught in a manner that leads to an investigation of human behavior, an understanding of the ramifications of prejudice, racism, and stereotyping, and an examination of what it means to be a responsible and respectful person, for the purposes of encouraging tolerance of diversity in a pluralistic society and for nurturing and protecting democratic values and institutions;

(g) The history of African-Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African-Americans to society;

(h) The elementary principles of agriculture;

(i) The true effects of all alcoholic and intoxicating liquors and beverages and narcotics upon the human body and mind;

(j) Kindness to animals;

(k) The history of the state;

(l) The conservation of natural resources; and

(m) Such additional materials, subjects, courses, or fields in such grades as *are may be* prescribed by law or by rules of the *commissioner state board* and the school board in fulfilling the requirements of law.

Section 127. Paragraph (a) of subsection (4) of section 233.067, Florida Statutes, 1996 Supplement, is amended to read:

233.067 Comprehensive health education and substance abuse prevention.—

(4) ADMINISTRATION OF THE COMPREHENSIVE HEALTH EDUCATION AND SUBSTANCE ABUSE PREVENTION PROGRAM.—

(a) There is created a comprehensive health education and substance abuse prevention program for children and youths in kindergarten and grades 1 through 12. Responsibility for the administration of this section shall rest with the Department of Education, in cooperation with, and with the advice of, the Department of *Children and Family Health and Rehabilitative Services*. The administration of the program shall be pursuant to rules and regulations adopted by the *Commissioner State Board* of Education, provided that such rules shall require the minimum amount of paperwork and reporting necessary to comply with this section. For purposes of administering this section, the commissioner shall establish a Prevention Resource Center within the department and shall assign appropriate staff to work directly with school district personnel. The center shall serve as a clearinghouse for evaluation and dissemination of information, materials, and model programs and shall provide program and technical assistance and other prevention services as determined by the commissioner.

Section 128. Subsection (6) of section 233.115, Florida Statutes, is amended to read:

233.115 Prohibited acts.—

(6) Nothing contained in this section shall be construed to prohibit or restrict a school official from receiving royalties or other compensation, other than compensation paid as commission to the school official for negotiating sales to district boards, from the publisher or manufacturer of instructional materials written, designed, or prepared by such school official, and adopted by the *commissioner state board* or purchased by any district board. No school official shall be allowed to receive royalties on any materials not on the state-adopted list purchased for use by his or her district school board.

Section 129. Subsection (1) of section 233.17, Florida Statutes, is amended to read:

233.17 Term of adoption for instructional materials.—

(1) The term of adoption of any instructional materials *must shall be* for a 6-year period beginning on April 1 following the adoption, unless the contract is extended as prescribed in s. 233.16(2). However, the *Commissioner State Board* of Education may approve by rule terms of adoption of less than 6 years for materials in content areas which require more frequent revision.

Section 130. Section 233.37, Florida Statutes, is amended to read:

233.37 Disposal of instructional materials.—Under rules of the *commissioner state board*, or rules of the district school board which have been approved by the commissioner, the district school board may dispose of the instructional materials of an old adoption when they have become unserviceable, upon such terms and conditions as will yield their fair salvage value. The Department of Education shall enter into one or more contracts with recycling firms for periodic pickup in school districts of obsolete or unusable materials to be salvaged.

Section 131. Section 233.39, Florida Statutes, is amended to read:

233.39 Renovation and repair of textbooks.—The *Commissioner Board* of Education shall prescribe rules and regulations under which the Department of Education shall, whenever requested to do so by any superintendent, make necessary arrangements for the renovation and repair of books *that which* could thereby be put into serviceable condition. All proper expense in connection with such renovation and repair is declared to be a proper charge against the appropriation for the purchase of instructional materials by the school district. The *commissioner state board*, in order to assist district school boards in obtaining the most economical services, shall formulate and prescribe such rules and regulations for the letting of contracts for the renovation and repair of books used in the public schools of the state as in its judgment *are may be* practicable and economically feasible. The Department of Education shall enter into such contracts upon the basis of competitive sealed bids from responsible firms who must, prior to contract award, have on hand in their plants the equipment necessary to perform the work of rebinding specified by the department. For the purpose of rebinding, textbooks *must shall* be classified by the department as to size, and such classification *must shall* be the basis for bids from rebinding firms. Bids from rebinding firms *must shall* be on the basis of minimum quantities of 100 books in each classification. ~~No Such a contract shall be entered for the renovation and repair of books used in the public schools of this state may not be entered when the cost of renovation and repair exceeds the original acquisition cost of such books or the cost of replacing such books, whichever is the lesser. However, this section does not nothing herein contained shall be construed to prohibit the inmates of the state prison from repairing and renovating any public school textbooks or library books. Any suit that is of any nature instituted under the provisions of this section must shall be brought in the name of the state, and any amount recovered by reason of such a suit must shall be deposited in the General Revenue Fund.~~

Section 132. Paragraph (a) of subsection (1) and subsection (2) of section 234.01, Florida Statutes, are amended to read:

234.01 Purpose; transportation; when provided.—

(1) School boards, after considering recommendations of the superintendent:

(a) Shall provide transportation for each student in prekindergarten handicapped and in kindergarten through grade 12 membership in a public school when, and only when, transportation is necessary to provide adequate educational facilities and opportunities which otherwise would not be available and to transport students whose homes are more than a reasonable walking distance, as defined by rules of the *commissioner state board*, from the nearest appropriate school.

(2) In each case in which transportation of students is impracticable in the opinion of the school board, the school board is authorized to take steps for making available educational facilities as are authorized by law or rule of the *commissioner state board* and as, in the opinion of the school board, are practical.

Section 133. Section 234.02, Florida Statutes, 1996 Supplement, is amended to read:

234.02 Safety and health of pupils.—Maximum regard for safety and adequate protection of health *are shall be* primary requirements *that must which shall be* observed by school boards in routing buses, appointing drivers, and providing and operating equipment, in accordance with all requirements of law and regulations of the *commissioner state board* in providing transportation pursuant to s. 234.01:

(1) School boards shall use school buses, as defined in s. 234.051, for all regular transportation. Regular transportation or regular use *means shall mean* transportation of students to and from school or school-related activities *that which* are part of a scheduled series or sequence of events to the same location. "Students" means, for the purposes of this section, students enrolled in the public schools in prekindergarten programs through grade 12. School boards may regularly use motor vehicles other than school buses only under the following conditions:

(a) When the transportation is for physically handicapped or isolated students and the district has elected to provide for the transportation of the student through written or oral contracts or agreements.

(b) When the transportation is a part of a comprehensive contract for a specialized educational program between a school board and a service provider who provides instruction, transportation, and other services.

(c) When the transportation is provided through a public transit system.

(d) When the transportation of students is necessary or practical in a motor vehicle owned or operated by a school board other than a school bus and such transportation is provided in designated seating positions in a passenger car not to exceed 8 students or in any other motor vehicle designed to transport 10 or fewer persons which meets all federal motor vehicle safety standards for passenger cars.

When students are transported in motor vehicles, the occupant crash protection system provided by the vehicle manufacturer *must shall be* used unless the student's physical condition prohibits such use.

(2) Except as provided in subsection (1), school boards may authorize the transportation of students in privately owned motor vehicles on a case-by-case basis only in the following circumstances:

(a) When a student is ill or injured and must be taken home or to a medical treatment facility under nonemergency circumstances; and

1. The school has been unable to contact the student's parent or guardian or such parent, guardian, or responsible adult designated by the parent or guardian is not available to provide the transportation;

2. Proper adult supervision of the student is available at the location to which the student is being transported;

3. The transportation is approved by the school principal, or a school administrator designated by the principal to grant or deny such approval, or in the absence of the principal and designee, by the highest ranking school administrator or teacher available under the circumstances; and

4. If the school has been unable to contact the parent or guardian prior to the transportation, the school shall continue to seek to contact the parent or guardian until the school is able to notify the parent or guardian of the transportation and the pertinent circumstances.

(b) When the transportation is in connection with a school function or event regarding which the school district or school has undertaken to participate or to sponsor or provide the participation of students; and

1. The function or event is a single event *that which* is not part of a scheduled series or sequence of events to the same location, such as, but not limited to, a field trip, a recreational outing, an interscholastic competition or cooperative event, an event connected with an extracurricular activity offered by the school, or an event connected to an educational program, such as, but not limited to, a job interview as part of a cooperative education program;

2. Transportation is not available, as a practical matter, using a school bus or school district passenger car; and

3. Each student's parent or guardian is notified, in writing, regarding the transportation arrangement and gives written consent before a student is transported in a privately owned motor vehicle.

(c) When a school board requires employees such as school social workers and attendance officers to use their own motor vehicles to perform duties of employment, and such duties include the occasional transportation of students.

(3) When approval is granted for the transportation of students in a privately owned vehicle, the provisions of s. 234.03, regarding liability for tort claims *are applicable, shall apply*. School district employees who provide approved transportation in privately owned vehicles *are shall be deemed to be* acting within the scope of their employment. Parents, guardians, or other responsible adults who provide approved transportation in privately owned vehicles *shall* have the same exposure to, and protections from, risks of personal liability as do school district employees acting within the scope of their employment.

(4) Each school board may establish policies *that which* restrict the use of privately owned motor vehicles to circumstances *that which* are more limited than are described in this section or *that which* prohibit

such use. Each school board may establish policies *that which* provide for more extensive requirements for approval, parental notification and consent procedures, insurance coverage, driver qualifications, or a combination of these.

(5) When transportation is authorized in privately owned vehicles, students may ~~only~~ be transported *only* in designated seating positions and ~~must shall be required to~~ use the occupant crash protection system provided by the vehicle manufacturer.

(6) School boards may contract with a common carrier to transport students to and from in-season and postseason athletic contests and to and from a school function or event in which the school district or a school has undertaken to participate or to provide or sponsor the participation of students.

(7) Transportation for adult students may be provided by any appropriate means as authorized by the school board when the transportation is accepted as a responsibility by the school board as provided in s. 234.01.

(8) Notwithstanding any other provision of this section, in an emergency situation *that which* constitutes an imminent threat to student health or safety, school personnel may take whatever action is necessary under the circumstances to protect student health and safety.

(9) Except as provided in s. 234.211, transportation *is shall* not be the responsibility of the school board in connection with any event or activity *that which* is not an event or activity offered by the school district or an event or an activity in which the school district or school has agreed to participate, cosponsor, or require the participation of students, and the school board ~~has shall have~~ no liability for transportation arranged and provided by parents or other parties to such events or activities.

(10) Each school board shall designate and adopt a specific plan for adequate examination, maintenance, and repair of transportation equipment. Examination of the mechanical condition of each school bus ~~must shall~~ be made by a capable mechanic at least once each month that the bus is in operation.

(11) The superintendent shall notify the school board of any school bus *that which* does not meet all requirements of law and regulations of the ~~commissioner state board~~, and the school board shall, if *the such* school bus is in an unsafe condition, withdraw it from use as a school bus until the bus meets *the said* requirements. The Department of Education may inspect or have inspected any school bus to determine whether the bus meets requirements of law and regulations of the ~~commissioner state board~~. The department may, after due notice to a school board that any school bus does not meet certain requirements of law and regulations of the ~~commissioner state board~~, rule that *the such* bus ~~must shall~~ be withdrawn from use as a school bus, this ruling to be effective forthwith or upon a date to be specified therein, whereupon the school board shall withdraw same from use as a school bus until the bus meets requirements of law and regulations of the ~~commissioner state board~~ and until the department has officially revoked *the pertinent its said* ruling. Notwithstanding any other provisions of this chapter, general purpose urban transit systems are declared qualified to transport children to and from school.

(12)(a) The routing and scheduling of school buses must be planned to eliminate the necessity for children to stand while a school bus is in motion. When circumstances of an emergency nature temporarily require transporting children on school buses in excess of the rated seating capacity, *the such* buses must proceed at a reduced rate of speed to maximize safety of the students, taking into account existing traffic conditions. Each school board is responsible for prompt relief of the emergency condition by providing additional equipment, bus rerouting, bus rescheduling, or other appropriate remedial action.

(b) Each school board, after considering recommendations from the superintendent, shall designate, by map or otherwise, or shall provide by school board rule for the designation of, nontransportation zones that ~~are shall be~~ composed of all areas in the district from which it is unnecessary or impracticable to furnish transportation. Nontransportation zones ~~must shall~~ be designated annually *before prior* to the opening of school and the designation of bus routes for the succeeding school year. Each school board, after considering recommendations from the superintendent, shall specifically designate, or shall provide by school board

rule for the designation of, specific routes to be traveled regularly by school buses, and each route ~~must shall~~ meet the requirements prescribed by rules of the ~~commissioner state board~~.

(c) Each district school board shall establish school bus stops, or provide by school board rule for the establishment of school bus stops, as necessary at the most reasonably safe locations available. Where unusual traffic hazards exist at school bus stops on roads maintained by the state outside of municipalities, the Department of Transportation, in concurrence and cooperation with and upon request of the district school board, shall place signs at such bus stops warning motorists of the location of the stops.

(13) The ~~Commissioner State Board~~ of Education may adopt rules to implement this section as ~~are it deems~~ necessary or desirable in the interest of student health and safety.

Section 134. Subsection (1) of section 234.03, Florida Statutes, is amended to read:

234.03 Tort liability; liability insurance.—

(1) Each district school board shall be liable for tort claims arising out of any incident or occurrence involving a school bus or other motor vehicle owned, maintained, operated, or used by such school board to transport persons, to the same extent and in the same manner as the state or any of its agencies or subdivisions is liable for tort claims under s. 768.28, except that the total liability to persons being transported for all claims or judgments of such persons arising out of the same incident or occurrence shall not exceed an amount equal to \$5,000 multiplied by the rated seating capacity of the bus or other vehicle, as determined by rules of the ~~Commissioner State Board~~ of Education, or \$100,000, whichever is greater. The provisions of s. 768.28 ~~shall~~ apply to all claims or actions brought against school boards, as authorized in this subsection.

Section 135. Subsections (2), (3), and (4) of section 234.051, Florida Statutes, are amended to read:

234.051 School buses.—School buses shall be defined and meet specifications as follows:

(2) SPECIFICATIONS.—Each school bus as defined in 49 C.F.R. part 571, and subsection (1), which is rented, leased, purchased, or contracted for, ~~must shall~~ meet the applicable federal motor vehicle safety standards and other specifications as prescribed by regulations of the ~~commissioner state board~~.

(3) STANDARDS FOR LEASED VEHICLES.—A motor vehicle owned and operated by a county or municipal transit authority which is leased by the school board of the local school district for transportation of public school students ~~must shall~~ meet such standards as ~~shall be established by the Commissioner State Board of Education establishes~~ for the purpose of implementing this act. A school bus authorized by a school board to carry passengers other than school pupils ~~must shall~~ have the words "School Bus" and any other signs and insignia *that which* mark or designate it as a school bus covered, removed, or otherwise concealed while *such said* passengers are being transported.

(4) OCCUPANT PROTECTION SYSTEMS.—Students ~~may shall~~ be transported only in designated seating positions, except as provided in s. 234.02(12), and ~~must shall be required to~~ use the occupant crash protection system provided by the manufacturer, which system ~~must shall~~ comply with the requirements of 49 C.F.R. part 571; or *with* specifications of the ~~Commissioner State Board~~ of Education.

Section 136. Section 234.091, Florida Statutes, is amended to read:

234.091 General qualifications.—Each school bus driver ~~must shall~~ be of good moral character, of good vision and hearing, able-bodied, free from communicable disease, mentally alert, and sufficiently strong physically to handle the bus with ease, and he or she ~~must shall~~ possess such other qualifications as are prescribed by the ~~commissioner state board~~, including those qualifications described in 49 C.F.R. 391.41-.49 "physical qualifications and examinations" and 49 C.F.R. 391.81-.123 "controlled substance testing," and he or she ~~must shall~~ hold a valid commercial driver's license with a passenger endorsement.

Section 137. Subsections (1) and (2) of section 234.101, Florida Statutes, 1996 Supplement, are amended to read:

234.101 Specific requirements; driver training program; contract.—

234.101 Requirements for school bus drivers.—

(1) Each school bus driver must be of good moral character, of good vision and hearing, able-bodied, free from communicable disease, mentally alert, and sufficiently strong physically to handle the bus with ease, and he or she must possess other qualifications prescribed by the *Commissioner of Education State Board*, including those qualifications described in 49 C.F.R. ss. 391.41-.49 "physical qualifications and examinations" and 49 C.F.R. ss. 391.81-.123 "controlled substance testing," and he or she must hold a valid commercial driver's license with a passenger endorsement.

(2) The *Commissioner State Board* of Education shall adopt requirements *that which* school bus drivers must meet *before they are employed prior to employment* by district school boards.

Section 138. Subsection (6) of section 234.301, Florida Statutes, is amended to read:

234.301 Pool purchase of school buses.—

(6) The *Commissioner State Board* of Education may adopt any rule necessary to implement this section, maintain the integrity of the school bus pool purchase program, and ensure the best and lowest price for purchasing school buses by the public school districts.

Section 139. Subsection (2) of section 235.01, Florida Statutes, is amended to read:

235.01 Purpose; rules.—

(2) The *Commissioner State Board* of Education shall adopt rules to implement ~~the provisions of~~ this chapter.

Section 140. Subsection (1) of section 235.04, Florida Statutes, is amended to read:

235.04 Disposal of property.—

(1) REAL PROPERTY.—Subject to rules of the *Commissioner State Board* of Education, a board may dispose of any land or real property *that which* is, by resolution of ~~the such~~ board, determined to be unnecessary for educational purposes as recommended in an educational plant survey. A board shall take diligent measures to dispose of educational property only in the best interests of the public. However, appraisals may be obtained by the board prior to or simultaneously with the receipt of bids.

Section 141. Paragraph (a) of subsection (2) of section 235.056, Florida Statutes, is amended to read:

235.056 Lease and lease-purchase of educational facilities and sites.—

(2)(a) A board ~~may is authorized~~ to rent or lease educational facilities and sites as defined in s. 235.011. Educational facilities and sites rented or leased for 1 year or less shall be funded through the operations budget or funds derived from millage proceeds pursuant to s. 236.25(2). A lease contract for 1 year or less, when extended or renewed beyond a year, becomes a multiple-year lease. Operational funds or funds derived from millage proceeds pursuant to s. 236.25(2) may be authorized to be expended for multiple-year leases. All leased facilities and sites *must shall* be inspected prior to occupancy by the board's Uniform Building Code inspector, who shall report to the department.

1. Beginning July 1, 1995, all newly leased spaces *must shall* be inspected and brought into compliance with the state minimum building code pursuant to chapter 553, and the life safety codes pursuant to chapter 633, prior to occupancy, using the board's operations budget or funds derived from millage proceeds pursuant to s. 236.25(2). As an alternative, the board may elect to comply with the State Uniform Building Code for Public Educational Facilities Construction instead of the state minimum building code or the life safety code, or both.

2. Plans for renovation or remodeling of leased space shall conform to state minimum building and life safety codes for educational occupancies, or other occupancies as appropriate, as required in chapters 553 and 633, prior to occupancy. As an alternative, the board may elect to

comply with the State Uniform Building Code for Public Educational Facilities Construction instead of the state minimum building code or the life safety code, or both.

3. All leased facilities *must shall* be inspected annually for fire safety deficiencies in accordance with the applicable code and have corrections made in accordance with s. 235.06. Operational funds or funds derived from millage proceeds pursuant to s. 236.25(2) may be used to correct deficiencies in leased space.

4. When the board declares that a public emergency exists, it may take up to 30 days to bring the leased facility into compliance with the requirements of *Commissioner State Board* of Education rules.

Section 142. Section 235.06, Florida Statutes, is amended to read:

235.06 Safety and sanitation standards and inspection of property.—The *Commissioner State Board* of Education *shall is empowered and directed to* adopt and administer rules prescribing standards for the safety and health of occupants of educational and ancillary plants as a part of the State Uniform Building Code for Public Educational Facilities Construction as provided in s. 235.26, the provisions of chapter 633 to the contrary notwithstanding. These standards *must shall* be used by all public agencies when inspecting public educational and ancillary plants. In accordance with such standards, each board shall prescribe policies and procedures establishing a comprehensive program of safety and sanitation for the protection of occupants of public educational and ancillary plants. Such policies *must shall* contain procedures for periodic inspections as prescribed herein and for withdrawal of any educational and ancillary plant, or portion thereof, from use until unsafe or unsanitary conditions are corrected or removed.

(1) PERIODIC INSPECTION OF PROPERTY BY THE BOARD.—

(a) Each board shall provide for periodic inspection of each educational and ancillary plant at least once during each fiscal year to determine compliance with standards of sanitation and casualty safety prescribed in the rules of the *commissioner state board*.

(b) Firesafety inspections ~~shall be made annually~~ of each educational and ancillary plant *must be made annually* by persons certified by the Division of State Fire Marshal to be eligible to conduct firesafety inspections in public educational and ancillary plants.

(c) In each firesafety inspection report, the board shall include a plan of action and a schedule for the correction of each deficiency. If immediate life-threatening deficiencies are noted in any inspection, the board shall either take action to promptly correct ~~the such~~ deficiencies or withdraw the educational or ancillary plant from use until such time as the deficiencies are corrected.

(2) INSPECTION OF EDUCATIONAL PROPERTY BY OTHER PUBLIC AGENCIES.—A safety or sanitation inspection of any educational or ancillary plant may be made at any time by the Department of Education or any other state or local agency authorized or required to conduct such inspections by either general or special law. Each agency conducting inspections shall use the standards adopted by the *Commissioner State Board* of Education in lieu of, and to the exclusion of, any other inspection standards prescribed either by statute or administrative rule, the provisions of chapter 633 to the contrary notwithstanding. The agency shall submit a copy of the inspection report to the board.

(3) CORRECTIVE ACTION.—Upon failure of the board to take corrective action within a reasonable time, the agency making the inspection may request the commissioner to:

(a) Order that appropriate action be taken to correct all deficiencies in accordance with a schedule determined jointly by the inspecting authority and the board; in *developing the development of such* schedule, consideration *must shall* be given to the seriousness of the deficiencies and the ability of the board to obtain the necessary funds; or

(b) After 30 calendar days' notice to the board, order all or a portion of the educational or ancillary plant withdrawn from use until the deficiencies are corrected.

Section 143. Subsections (2) and (3) of section 235.19, Florida Statutes, are amended to read:

235.19 Site planning and selection.—

(2) Each new site selected must be adequate in size to meet the educational needs of the students to be served. The ~~Commissioner State Board~~ of Education shall prescribe by rule recommended sizes for new sites according to categories of students to be housed and other appropriate factors determined by the ~~commissioner state board~~. Less-than-recommended site sizes ~~are shall be~~ allowed if the board, by a two-thirds majority, recommends such a site and finds that it can provide an appropriate and equitable educational program on ~~the such~~ site.

(3) Sites recommended for purchase, or purchased, in accordance with chapter 230 or chapter 240 must meet standards prescribed therein and such supplementary standards as ~~may be prescribed by the commissioner prescribes state board~~ to promote the educational interests of the students. Each site must be well drained and suitable for outdoor educational purposes as appropriate for the educational program. As provided in s. 333.03, the site ~~must shall~~ not be located within any path of flight approach of any airport. Insofar as is practicable, the site ~~must shall~~ not adjoin a right-of-way of any railroad or through highway and ~~must shall~~ not be adjacent to any factory or other property from which noise, odors, or other disturbances, or at which conditions, would be likely to interfere with the educational program.

Section 144. Subsection (4) of section 235.211, Florida Statutes, is amended to read:

235.211 Educational facilities contracting and construction techniques.—

(4) Except as otherwise provided in this section and s. 481.229, the services of a registered architect ~~must shall~~ be used for the development of plans for the erection, enlargement, or alteration of any educational facility. The services of a registered architect ~~are shall~~ not be required for a minor renovation ~~project for which the projects with~~ a construction cost ~~is of~~ less than \$50,000 or for the placement or hookup of relocatable educational facilities that conform with standards adopted ~~under pursuant to~~ s. 235.26(2) and (3). However, boards must provide compliance with building code requirements and ensure that these structures are adequately anchored for wind resistance as required by law. Boards are encouraged to consider the reuse of existing construction documents or design criteria packages where such reuse is feasible and practical. Notwithstanding s. 287.055, a board may purchase the architectural services for the design of educational or ancillary facilities under an existing contract agreement for professional services held by a school board in the State of Florida, provided that the purchase is to the economic advantage of the purchasing board, the services conform to the standards prescribed by rules of the ~~Commissioner State Board~~ of Education, and such reuse is not without notice to, and permission from, the architect of record whose plans or design criteria are being reused. ~~The department shall review these plans shall be reviewed by the department~~ for compliance with the state requirements for educational facilities. Rules adopted ~~under pursuant to~~ this section ~~must shall~~ establish uniform prequalification, selection, bidding, and negotiation procedures applicable to construction management contracts and the design-build process. This section does not supersede any small, woman-owned or minority-owned business enterprise preference program adopted by a board. Except as otherwise provided in this section, the negotiation procedures applicable to construction management contracts and the design-build process must conform to the requirements of s. 287.055. A board may not modify any rules regarding construction management contracts or the design-build process.

Section 145. Section 235.26, Florida Statutes, is amended to read:

235.26 State Uniform Building Code for Public Educational Facilities Construction.—The ~~Commissioner State Board~~ of Education shall adopt a uniform statewide building code for the planning and construction of public educational and ancillary plants by district school boards and community college district boards of trustees. The code ~~must shall~~ be entitled the State Uniform Building Code for Public Educational Facilities Construction. Included in this code ~~must shall~~ be flood plain management criteria in compliance with the rules and regulations in 44 C.F.R., parts 59 and 60, and subsequent revisions thereto which are adopted by the Federal Emergency Management Agency. Wherever the words "Uniform Building Code" appear, they ~~shall~~ mean the "State Uniform Building Code for Public Educational Facilities Construction." ~~It is shall not a purpose be the intent of the Uniform Building Code to inhibit~~

the use of new materials or innovative techniques; nor ~~may shall~~ it specify or prohibit materials by brand names. The code ~~must shall~~ be flexible enough to cover all phases of construction ~~so as to which will~~ afford reasonable protection for ~~the~~ public safety, health, and general welfare. The department may secure the service of other state agencies or such other assistance as it ~~finds may find~~ desirable in ~~revising the revision of~~ the code.

(1) UNIFORM BUILDING CODE.—

(a) Except as otherwise provided in paragraph (b), all public educational and ancillary plants constructed by a district school board or a community college district board of trustees ~~must shall~~ conform to the State Uniform Building Code for Public Educational Facilities Construction, and such plants are exempt from all other state, county, district, municipal, or local building codes, interpretations, building permits, and assessments of fees for building permits, ordinances, road closures, and impact fees or service availability fees. Any inspection by local or state government ~~must shall~~ be based on the Uniform Building Code as prescribed by rule. Each board shall provide for periodic inspection of the proposed educational plant during each phase of construction to determine compliance with the Uniform Building Code.

(b) A district school board or community college district board of trustees may conform with local building codes and the administration of such codes when constructing ancillary plants ~~that which~~ are not attached to educational facilities, ~~if those provided that such~~ plants conform ~~to with~~ the space size requirements established in the Uniform Building Code.

(2) CONFORMITY TO UNIFORM BUILDING CODE STANDARDS REQUIRED FOR APPROVAL.—A district school board or community college district board of trustees ~~may shall~~ not approve any plans for the construction, renovation, remodeling, or demolition of any educational or ancillary plants unless these plans conform to the requirements of the Uniform Building Code. Each district school board and community college district board of trustees may adopt policies for delegating to the superintendent or community college president authority for submitting documents to the department and for awarding contracts subsequent to and consistent with board approval of the scope, timeframes, funding source, and budget of a survey-recommended project. ~~It is shall~~ also be the responsibility of the department to develop, as a part of the Uniform Building Code, standards relating to:

(a) Prefabricated or factory-built facilities ~~that which~~ are designed to be portable, relocatable, demountable, or reconstructible; are used primarily as classrooms; and do not fall under the provisions of ss. 320.822-320.862. Such standards ~~must shall~~ permit boards to contract with the Department of Community Affairs for factory inspections by certified Uniform Building Code inspectors to certify conformance with law and ~~with rules of the Commissioner State Board of Education rule~~.

(b) The sanitation of educational and ancillary plants and the health of occupants of educational and ancillary plants.

(c) The safety of occupants of educational and ancillary plants as provided in s. 235.06.

(d) The physically handicapped.

(e) Accessibility for children, notwithstanding the provisions of s. 553.512.

(f) The performance of life-cycle cost analyses on alternative architectural and engineering designs to evaluate their energy efficiencies.

1. The life-cycle cost analysis ~~must consist of shall be~~ the sum of:

a. The reasonably expected fuel costs over the life of the building that are required to maintain illumination, water heating, temperature, humidity, ventilation, and all other energy-consuming equipment in a facility; and

b. The reasonable costs of probable maintenance, including labor and materials, and operation of the building.

2. For computation of the life-cycle costs, the department ~~shall~~ develop standards that ~~must shall~~ include, but ~~need~~ not be limited to:

- a. The orientation and integration of the facility with respect to its physical site.
- b. The amount and type of glass employed in the facility and the directions of exposure.
- c. The effect of insulation incorporated into the facility design and the effect on solar utilization of the properties of external surfaces.
- d. The variable occupancy and operating conditions of the facility and subportions of the facility.
- e. An energy consumption analysis of the major equipment of the facility's heating, ventilating, and cooling system; lighting system; and hot water system and all other major energy-consuming equipment and systems as appropriate.

3. Such standards ~~must shall~~ be based on the best currently available methods of analysis, including such methods as those of the National Institute of Standards and Technology, the Department of Housing and Urban Development, and other federal agencies and professional societies and materials developed by the Department of Management Services and the department. Provisions ~~must shall~~ be made for an annual updating of standards as required.

(3) ENFORCEMENT BY BOARD.—It is the responsibility of each district school board and community college district board of trustees to ensure that all plans and educational and ancillary plants meet the standards of the Uniform Building Code and to provide for the enforcement of this code in the areas of its jurisdiction. Each board shall provide for the proper supervision and inspection of the work. Each board ~~may is authorized to~~ employ a chief building official or inspector and such other inspectors, who have been certified by the department or certified pursuant to chapter 468, and ~~such personnel as are may be~~ necessary to administer and enforce the provisions of this code. Boards may also utilize local building department inspectors who are certified by the department to enforce this code. Plans or facilities that fail to meet the standards of the Uniform Building Code ~~may shall~~ not be approved.

(4) ENFORCEMENT BY DEPARTMENT.—As a further means of ensuring that all educational and ancillary facilities hereafter constructed or materially altered or added to conform to the Uniform Building Code standards, each district school board and community college district board of trustees ~~that which~~ undertakes the construction, renovation, remodeling, purchasing, or lease-purchase of any educational plant or ancillary facility, the cost of which exceeds \$200,000, may submit plans to the department ~~for and receive the approval of the department.~~

(5) APPROVAL.—

(a) Before a contract has been let for the construction, the department, the board, or the board's authorized review agent must approve the phase III construction documents. A board may reuse prototype plans on another site, provided the facilities list and phase III construction documents have been updated for the new site and for compliance with the Uniform Building Code and any laws relating to firesafety, health and sanitation, casualty safety, and requirements for the physically handicapped which are in effect at the time a construction contract is to be awarded.

(b) In reviewing plans for approval, the department, the board, or its review agent as authorized in s. 235.017, shall take into consideration:

1. The need for the new facility.
2. The educational and ancillary plant planning.
3. The architectural and engineering planning.
4. The location on the site.
5. Plans for future expansion.
6. The type of construction.
7. Sanitary provisions.
8. Conformity to Uniform Building Code standards.
9. The structural design and strength of materials proposed to be used.
10. The mechanical design of any heating, air-conditioning, plumbing, or ventilating system. Typical heating, ventilating, and air-conditioning systems preapproved by the department for specific applications may be used in the design of educational facilities.

11. The electrical design of educational plants.
12. The energy efficiency and conservation of the design.
13. Life-cycle cost considerations.
14. The design to accommodate physically handicapped persons.
15. The ratio of net to gross square footage.
16. The proposed construction cost per gross square foot.

(c) The board ~~may shall~~ not occupy a facility until the project has been inspected to verify compliance with statutes, rules, and codes affecting the health and safety of the occupants. Verification of compliance with rules, statutes, and codes for nonoccupancy projects such as roofing, paving, site improvements, or replacement of equipment may be certified by the architect or engineer of record and verification of compliance for other projects may be made by an inspector certified by the department or certified pursuant to chapter 468 who is not the architect or engineer of record. The board shall maintain a record of the project's completion and permanent archive of phase III construction documents, including any addenda and change orders to the project. The boards shall provide project data to the department, as requested, for purposes and reports needed by the Legislature.

(6) ~~REVIEW PROCEDURE STATE BOARD OF APPEALS.~~—The ~~Commissioner State Board~~ of Education shall ~~have be the final review board of appeals for~~ all questions, disputes, or interpretations involving the Uniform Building Code, and any objections to decisions made by the inspectors or the department ~~must shall~~ be submitted in writing.

(7) BIENNIAL REVIEW AND UPDATE; DISSEMINATION.—The department shall biennially review, update, and revise the Uniform Building Code. The department shall publish and make available to each district school board and community college district board of trustees at no cost copies of the code and each amendment and revision thereto. The department shall make additional copies available to all interested persons at a price sufficient to recover costs.

(8) LEGAL EFFECT OF CODE.—The State Uniform Building Code for Public Educational Facilities Construction ~~has shall have~~ the force and effect of law and ~~supersedes shall supersede~~ any other code adopted by a district school board or community college district board of trustees or any other building code or ordinance for the construction of educational and ancillary plants whether at the local, county, or state level and whether adopted by rule or legislative enactment. All special acts or general laws of local application are hereby repealed to the extent that they conflict with this section.

(9) EDUCATION FACILITIES AS EMERGENCY SHELTERS.—

(a) The Department of Education shall, in consultation with boards and county and state emergency management offices, amend the State Uniform Building Code for Public Educational Facilities Construction to incorporate public shelter design criteria into the Uniform Building Code. The new criteria must be designed to ensure that appropriate core facility areas in new educational facilities can serve as public shelters for emergency management purposes. The ~~Commissioner State Board~~ of Education shall publish proposed amendments to the State Uniform Building Code for Public Educational Facilities Construction setting forth the public-shelter criteria by July 1, 1995. A facility, or an appropriate core facility area within a facility, for which a design contract is entered into subsequent to the effective date of the inclusion of the public shelter criteria in the code must be built in compliance with the amended code unless the facility or a part thereof is exempted from using the new shelter criteria due to its location, size, or other characteristics by the applicable board with the concurrence of the applicable local emergency management agency or the Department of Community Affairs. Any educational facility located or proposed to be located in an identified category 1, 2, or 3 evacuation zone ~~is shall~~ not be subject to the requirements of this subsection. If more than one educational facility is being constructed within any 3-mile radius, no more than one facility, which ~~must shall~~ be selected on the basis of cost-effectiveness and greatest provision of shelter space, ~~is shall be~~ required to incorporate the public shelter criteria into its construction.

(b) By January 31, 1996, and by January 31 every even-numbered year thereafter, the Department of Community Affairs shall prepare and submit a statewide emergency shelter plan to the Governor and the Cabinet for approval. ~~The Such~~ plan ~~must shall~~ identify the general location and square footage of existing shelters, by county, and the general location and square footage of needed shelters, by county, in the

next 5 years. Such plan ~~must shall~~ identify the types of public facilities which should be constructed to comply with emergency shelter criteria and ~~must~~ recommend an appropriate, adequate, and dedicated source of funding for the additional cost of constructing emergency shelters within these public facilities. After the approval of the plan, ~~a no~~ board ~~may not shall~~ be required to build more emergency shelter space than identified as needed in the plan, and decisions pertaining to exemptions pursuant to paragraph (a) ~~must shall~~ be guided by the plan and ~~by the provisions of~~ this subsection.

(10) LOCAL LEGISLATION PROHIBITED.—After June 30, 1985, pursuant to s. 11(a)(21), Art. III of the State Constitution, there shall not be enacted any special act or general law of local application which proposes to amend, alter, or contravene any provisions of the State Building Code adopted under the authority of this section.

Section 146. Subsections (2) and (3) of section 235.31, Florida Statutes, are amended to read:

235.31 Advertising and awarding contracts; prequalification of contractor.—

(2) Boards may elect to come under the rules prescribed by the ~~Commissioner State Board~~ of Education for the prequalification of bidders of educational facilities construction.

(3) A public agency that is authorized to purchase services for maintenance, repair, and site improvement of facilities on behalf of various agencies of a county must give the school board in that county the option of purchasing those services for educational facilities and ancillary plants under those contracts at the unit prices stated in those contracts. However, the person providing those services under such a contract may, without jeopardizing the contract, refuse to provide the services to the school board. The school board may purchase those services under such a contract only if the purchase is to the economic advantage of the school district and the services conform to the standards and specifications prescribed by rules of the ~~Commissioner State Board~~ of Education and, if applicable, to the requirements of s. 287.055. This subsection does not apply to contracts in existence on July 1, 1994.

Section 147. Section 235.32, Florida Statutes, is amended to read:

235.32 Substance of contract; contractors to give bond; penalties.—Each board shall develop contracts consistent with this chapter and statutes governing public facilities. Such a contract ~~must shall~~ contain the drawings and specifications of the work to be done and the material to be furnished, the time limit in which the construction is to be completed, the time and method by which payments are to be made upon the contract, and the penalty to be paid by the contractor for any failure to comply with the terms of the contract. The board may require the contractor to pay a penalty for any failure to comply with the terms of the contract and may provide an incentive for early completion. Upon accepting a satisfactory bid, the board shall enter into a contract with the party or parties whose bid has been accepted. The contractor shall furnish the board with a performance and payment bond as set forth in s. 255.05. Notwithstanding any other provision of this section, if 25 percent or more of the costs of any construction project is paid out of a trust fund established pursuant to 31 U.S.C. s. 1243(a)(1), laborers and mechanics employed by contractors or subcontractors on such construction will be paid wages not less than those prevailing on similar construction projects in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. ~~A person, firm, or corporation that constructs Any and all persons, firms, or corporations who shall construct~~ any part of any educational plant, or addition thereto, on the basis of any unapproved plans or in violation of any plans approved in accordance with the provisions of this chapter and rules of the ~~Commissioner State Board~~ of Education relating to building standards or specifications ~~is shall~~ be subject to forfeiture of bond and unpaid compensation in an amount sufficient to reimburse the board for any costs ~~that which~~ will need to be incurred in making any changes necessary to assure that all requirements are met and ~~is shall~~ also be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for each separate violation.

Section 148. Subsections (1), (2), (4), and (5) and paragraphs (a) and (f) of subsection (3) of section 236.02, Florida Statutes, are amended to read:

236.02 Minimum requirements of the Florida Education Finance Program.—Each district which participates in the state appropriations for the Florida Education Finance Program shall provide evidence of its effort to maintain an adequate school program throughout the district and shall meet at least the following requirements:

(1) ACCOUNTS AND REPORTS.—Maintain adequate and accurate records, including a system of internal accounts for individual schools, and file with the Department of Education, in correct and proper form on or before the date due as fixed by law or regulation, each annual or periodic report ~~that which~~ is required by regulations of the ~~commissioner state board~~.

(2) MINIMUM TERM.—Operate all schools for a term of at least 180 actual teaching days as prescribed in s. 228.041(13) or the equivalent on an hourly basis as specified by rules of the ~~Commissioner State Board~~ of Education each school year. The ~~commissioner state board~~ may prescribe procedures for altering, and, upon written application, may alter, this requirement during a national, state, or local emergency as it may apply to an individual school or schools in any district or districts if, in the opinion of the board, it is not feasible to make up lost days, and the apportionment may, at the discretion of the ~~Commissioner State Board~~ of Education and ~~if in the event~~ the board determines that the reduction of school days is caused by the existence of a bona fide emergency, be reduced for such district or districts in proportion to the decrease in the length of term in any such school or schools. ~~Under no circumstances shall~~ A strike, as defined in s. 447.203(6), by employees of the school district ~~may not~~ be considered an emergency.

(3) EMPLOYMENT POLICIES.—Adopt rules relating to the appointment, promotion, transfer, suspension, and dismissal of personnel.

(a) Such rules ~~must shall~~ conform to applicable law and ~~state board~~ rules of the ~~commissioner~~ and ~~must shall~~ include the duties and responsibilities of the superintendent and school board pertaining to these and other personnel matters.

(f) Such rules ~~must shall~~ require 12 calendar months of service for such principals as prescribed by regulations of the ~~commissioner state board~~ and ~~must shall~~ require 10 months to include not less than 196 days of service, excluding Sundays and other holidays, for all members of the instructional staff, with any such service on a 12-month basis to include reasonable allowance for vacation or further study as prescribed by the school board in accordance with regulations of the ~~commissioner state board~~.

(4) SALARY SCHEDULES.—Expend funds for salaries in accordance with a salary schedule or schedules adopted by the school board in accordance with the provisions of law and regulations of the ~~commissioner state board~~.

(5) BUDGETS.—Observe fully at all times all requirements of law and regulations of the ~~commissioner state board~~ relating to the preparation, adoption, and execution of budgets for the district school system.

Section 149. Section 236.0801, Florida Statutes, is amended to read:

236.0801 Requirements for reporting kindergarten students.—Beginning with the 1995-1996 school year, a school district may not report for funding any kindergarten students under the Florida Education Finance Program unless the key data elements for the first state education goal, as approved by the ~~Commissioner State Board~~ of Education, were collected by the district.

Section 150. Paragraphs (a) and (c) of subsection (1) of section 236.081, Florida Statutes, 1996 Supplement, are amended 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:

(a) Determination of full-time equivalent membership.—During each of several school weeks, including scheduled intersessions of a year-round school program during the fiscal year, a program membership

survey of each school shall be made by each district by aggregating the full-time equivalent student membership of each program by school and by district. The department shall establish the number and interval of membership calculations, except that for basic and special programs such calculations shall not exceed nine for any fiscal year. The district's full-time equivalent membership shall be computed and currently maintained in accordance with regulations of the *commissioner state board*.

(c) Determination of programs.—Cost factors based on desired relative cost differences between the following programs shall be established in the annual General Appropriations Act. However, the application of cost factors in part-time programs for exceptional students is limited to a maximum of twelve twenty-fifths of a student membership in a given program during a week. Beginning with the 1990-1991 fiscal year, the application of cost factors in part-time programs for exceptional students is limited to a maximum of 432 hours of a student full-time equivalent membership in a given program during a school year as defined in s. 228.041(16). The criteria for qualification for the special programs, including maximum case loads for part-time programs, *must shall* be determined by *the commissioner by rule rules of the state board*. However, the district may apply to the department for an exemption to the maximums set above, and the department may grant such exemptions when district size or program dispersal would place an undue burden on the district. Cost factors for special programs for exceptional students shall be used to fund programs, approved by the department, as provided by law for exceptional students under the minimum age for enrollment in kindergarten. Beginning with the 1993-1994 fiscal year, the Department of Education shall conduct a program cost analysis, pursuant to *Commissioner State Board of Education rule*, as part of the program review process. Adult basic and secondary programs must also be addressed in the program cost analysis. The program cost analysis must include, but is not limited to, the cost of direct and indirect operations, instruction, faculty-to-student ratio, consumable supplies, equipment, and optimum program length. Beginning with the 1995-1996 General Appropriations Act, the Legislature shall assign each secondary career education program and certificate career education program to a program funding level based on programmatic costs derived from the program cost analysis. A minimum of five funding levels shall be established in the General Appropriations Act for the purposes of this paragraph.

1. Basic programs.—
 - a. Kindergarten and grades 1, 2, and 3.
 - b. Grades 4, 5, 6, 7, and 8.
 - c. Grades 9, 10, 11, and 12.
2. Special programs for exceptional students.—
 - a. Educable mentally handicapped.
 - b. Trainable mentally handicapped.
 - c. Physically handicapped.
 - d. Physical and occupational therapy part-time.
 - e. Speech, language, and hearing part-time.
 - f. Speech, language, and hearing.
 - g. Visually handicapped part-time.
 - h. Visually handicapped.
 - i. Emotionally handicapped part-time.
 - j. Emotionally handicapped.
 - k. Specific learning disability part-time.
 - l. Specific learning disability.
- m. Gifted part-time.
- n. Hospital and homebound part-time.
- o. Profoundly handicapped.
3. Adult general education programs.—
 - a. Adult basic education.
 - b. Adult secondary education.
 - c. Lifelong learning.
4. Secondary career education programs.—
 - a. Level I.
 - b. Level II.
 - c. Level III.
 - d. Level IV.
 - e. Level V.
5. Certificate career education and supplemental career education programs.—
 - a. Level I.
 - b. Level II.
 - c. Level III.
 - d. Level IV.
 - e. Level V.
6. Students-at-risk programs.—

- a. Dropout prevention.
- b. Special programs for teenage parents.
- c. Kindergarten through grade 3 ESOL.
- d. Grades 4 through 8 ESOL.
- e. Grades 9 through 12 ESOL.

Section 151. Paragraphs (a) and (c) of subsection (2) of section 236.0811, Florida Statutes, are amended to read:

236.0811 Educational training.—

(2)(a)1. Pursuant to rules of the *Commissioner State Board of Education*, each school board shall develop and annually approve a master plan for inservice educational training. The plan shall include all inservice programs for all district employees from all fund sources and shall be updated annually by September 1 using criteria and procedures for continued approval as specified by *state board rule of the commissioner*. Verification that the plan meets all requirements of this section *must shall* be submitted annually to the commissioner by October 1. The plan *must shall* be based on an assessment of the inservice educational training needs of the district conducted by a committee that includes parents, classroom teachers, and other educational personnel. This assessment *must shall* identify districtwide inservice needs and the inservice training needs of local schools. The plan *must shall* include, at a minimum, the inservice activities that are necessary for implementation of the schools' improvement plans during the current fiscal year. The plan *must shall* include, but is not limited to, components addressing: competencies in the identification, assessment, and prescription of instruction for exceptional students; competencies in the identification, assessment, and prescription of instruction for child abuse and neglect prevention and for substance and alcohol abuse prevention; and competencies in instruction for multicultural sensitivity in the classroom. In addition, the plan must include a component to provide regular training to classroom teachers on advances in the field of normal child development and the disorders of development. The plan *must shall* also include components that may be used to satisfy the certification requirements applicable to teachers of students with limited proficiency in English and components that may be used for the renewal of a certificate in each of the following areas: a study of the middle grades, understanding the student in the middle grades, organizing interdisciplinary instruction in the middle grades, developing critical thinking and creative thinking in students in the middle grades, counseling functions of the teacher in the middle grades, developing creative learning materials for the middle grades, and planning and evaluating programs in the middle grades. The plan *must shall* include inservice activities for all district employees from all fund sources.

2. Classroom teachers and guidance counselors shall be required to participate in the inservice training for child abuse and neglect prevention, for alcohol and substance abuse prevention education, and for multicultural sensitivity education, which may include negotiation and conflict resolution training.

3. The department shall withhold funding of any district's master inservice plan, as required by this section, *if the plan which* fails to provide and require training in substance abuse prevention education pursuant to s. 233.067(4)(c)1. for all classroom teachers and guidance counselors. The department is authorized to waive one or more inservice areas related to the middle grades if the district can document its unsuccessful attempt to secure a competent trainer or sufficient enrollment or when the department determines that specific validated competencies may be substituted in lieu of such inservice areas.

(c) An organization of nonpublic schools which has no fewer than 10 member schools in this state, which publishes and files with the Department of Education copies of its standards, and the member schools of which comply with the provisions of chapter 232 relating to compulsory attendance may also develop a master plan for inservice educational training. The plan *must shall* be submitted to the commissioner for approval pursuant to rules of the *commissioner State Board of Education*. Costs associated with approval of the plan, such as travel, per diem, and substitutes required for onsite reviews, *must shall* be determined in accordance with criteria established by the Department of Education and *must shall* be borne by the organization.

Section 152. Subsections (1), and (5) of section 236.083, Florida Statutes, 1996 Supplement, are amended to read:

236.083 Funds for student transportation.—The annual allocation to each district for transportation to public school programs of students in membership in kindergarten through grade 12, in migrant and exceptional student programs below kindergarten, and in any other state-funded prekindergarten program shall be determined as follows:

(1) Subject to the rules of the ~~commissioner state board~~, each district shall determine the membership of students who are transported:

- (a) By reason of living 2 miles or more from school;
- (b) By reason of being students with disabilities or enrolled in a teenage parent program, regardless of distance to school;
- (c) By reason of being in a state prekindergarten program, regardless of distance from school;
- (d) By reason of being vocational, dual enrollment, or students with disabilities transported from one school center to another to participate in an instructional program or service; or students with disabilities, transported from one designation to another in the state, provided one designation is a school center and provided the student's individual educational plan (IEP) identifies the need for the instructional program or service and transportation to be provided by the school district. A "school center" is defined as a public school center, public community college, public university, or other facility rented, leased, or owned and operated by the school district or another public agency. A "dual enrollment student" is defined as a public school student in membership in both a public secondary school program and a public community college or a public university program under a written agreement to partially fulfill ss. 229.814 and 240.115 and earning full-time equivalent membership under s. 236.081(1)(j);

(e) With respect to elementary school students whose grade level does not exceed grade 6, by reason of being subjected to hazardous walking conditions en route to or from school as provided in s. 234.021. Such rules shall, when appropriate, provide for the determination of membership under this paragraph for less than 1 year to accommodate the needs of students who require transportation only until such hazardous conditions are corrected; and

(f) By reason of being a pregnant student or student parent, and the child of a student parent as provided in s. 230.23166, regardless of distance from school.

(5) Funds allocated or apportioned for the payment of student transportation services may be used to pay for transportation of students to and from school on local general purpose transportation systems. Student transportation funds may also be used to pay for transportation of students to and from school in private passenger cars and boats when the transportation is for isolated students, or students with disabilities as defined by rule. Subject to the rules of the ~~Commissioner State Board~~ of Education, each school district shall determine and report the number of assigned students using general purpose transportation private passenger cars and boats. The allocation per student ~~must shall~~ be equal to the allocation per student riding a school bus.

Section 153. Section 236.0841, Florida Statutes, is amended to read:

236.0841 Student enrichment, remedial, and dropout prevention programs.—Each school district may provide any amount from current operation funds of the Florida Education Finance Program for salaries of personnel who are employed, pursuant to regulations of the ~~commissioner state board~~, to provide supplementary enrichment, remedial, and dropout prevention activities pursuant to s. 230.2316. The enrichment, remedial, and dropout prevention activities, when offered, ~~must shall~~ be provided to students during periods of time supplemental to or beyond the required 180 days of instruction.

Section 154. Subsections (2) and (3) of section 236.1225, Florida Statutes, are amended to read:

236.1225 Gifted education exemplary program grants.—

(2) There is hereby created a grant program for education for the gifted which shall be administered by the Commissioner of Education in cooperation and consultation with appropriate organizations and associations concerned with education for the gifted and pursuant to rules adopted by the ~~Commissioner State Board~~ of Education. The program may be implemented in any public school.

(3) Pursuant to policies and rules to be adopted by the ~~Commissioner State Board~~ of Education, each district school board, two or more district school boards in cooperation, or a public school principal through the district school board may submit to the commissioner a proposed program designed to effectuate an exemplary program for education for the gifted in a school, district, or group of districts. Consideration for funding shall be given to proposed programs of district school boards that are developed with the cooperation of a community college, public or private college, or university for the purpose of providing advanced accelerated instruction for public school students pursuant to s. 229.814. In order to be approved, a program proposal ~~must shall~~ include:

- (a) Clearly stated goals and objectives expressed, to the maximum extent possible, in measurable terms;
- (b) Information concerning the number of students, teachers, and other personnel to be involved in the program;
- (c) The estimated cost of the program and the number of years for which it is to be funded;
- (d) Provisions for evaluation of the program and for its integration into the general curriculum and financial program of the school district or districts at the end of the funded period; and
- (e) Such other information and provisions as ~~shall be required by the commissioner requires~~.

Section 155. Section 236.13, Florida Statutes, 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 ~~must 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, ~~and rules of the commissioner~~.

(1) A school board shall credit interest or profits on investments to the specific budgeted fund, as defined by the accounting system required by s. 237.01, that produced the earnings unless otherwise authorized by law, rule, or regulation.

(2) A school board may temporarily advance moneys from one fund, as defined by the accounting system required by s. 237.01, to another fund when insufficient moneys are available to meet current obligations if the temporary advancement is repaid within 13 months, appropriate accounting records are maintained, and the temporary advancement does not restrict, impede, or limit implementation or fulfillment of the original purposes for which the moneys were received in the fund providing the advancement.

(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 156. Paragraph (b) of subsection (4) of section 236.685, Florida Statutes, 1996 Supplement, is amended to read:

236.685 Educational funding accountability.—

(4)

(b) Any teacher-to-student ratio or class size measure required by law, or State Board of Education rule, or ~~Commissioner of Education rule~~ must be computed by dividing the number of students in membership at the school by the number of full-time equivalent instructional personnel pursuant to paragraph (3)(a). Class size reports for exceptional student education shall be computed by dividing the number of exceptional students in membership by the number of full-time equivalent exceptional education classroom teachers who are classified as instructional personnel pursuant to paragraph (3)(a).

Section 157. Subsection (5) of section 237.211, Florida Statutes, is amended to read:

237.211 School depositories; payments into and withdrawals from depositories.—

(5) FORM OF WARRANTS; DIRECT DEPOSIT OF FUNDS.—The school board is authorized to establish the form or forms of warrants, which are to be signed by the chair or, in his or her absence, the vice chair of the school board and countersigned by the superintendent, for payment or disbursement of moneys out of the school depository and to change the form thereof from time to time as the school board deems appropriate. If authorized in writing by the payee, such school board warrants may provide for the direct deposit of funds to the account of the payee in any financial institution ~~that which~~ is designated in writing by the payee and ~~that which~~ has lawful authority to accept such deposits. The written authorization of the payee ~~must shall~~ be filed with the school board. Direct deposit of funds may be by any electronic or other medium approved by the school board for such purpose. The ~~Commissioner State Board~~ of Education shall adopt rules prescribing minimum security measures that must be implemented by any school board ~~before prior to~~ establishing the system authorized in this subsection.

Section 158. Subsection (4) of section 237.40, Florida Statutes, 1996 Supplement, is amended to read:

237.40 Direct-support organization; use of property; board of directors; audit.—

(4) ANNUAL AUDIT.—The direct-support organization shall make provisions for an annual postaudit of its financial accounts, to be conducted by the district auditor in accordance with rules to be ~~adopted promulgated~~ by the ~~Commissioner State Board~~ of Education. The annual audit report shall include a management letter and shall be filed as a public record in the district. The ~~Commissioner State Board~~ of Education and the Auditor General have the authority to require and receive from the organization or the district auditor any detail or supplemental data relative to the operation of the organization. The identity of donors and all information identifying donors and prospective donors are confidential and exempt from the provisions of s. 119.07(1), and that anonymity shall be maintained in the auditor's report. All other records and information ~~are shall be~~ considered public records for the purposes of chapter 119.

Section 159. Subsection (3) of section 316.615, Florida Statutes, is amended to read:

316.615 School buses; physical requirements of drivers.—

(3) ~~A No~~ person ~~may not shall~~ operate or cause to be operated a motor vehicle covered by subsection (1) or subsection (2) when transporting school children unless the operator has met the physical examination requirements established by law and by rule adopted by the ~~Commissioner State Board~~ of Education. The operator ~~of such a motor vehicle~~ shall pass an annual physical examination and have posted in the vehicle a certificate to drive ~~the vehicle same~~.

Section 160. *All rules of the State Board of Education adopted pursuant to the provisions of law amended by this act in effect on June 30, 1997, remain in effect until specifically altered, amended, or revoked in the manner provided by law.*

Section 161. *Sections 228.0617 and 228.085, Florida Statutes, are repealed.*

Section 162. Subsection (3) of section 228.121, Florida Statutes, is amended to read:

228.121 Nonresident tuition fee; tuition fee exemptions.—

(3) No tuition shall be charged pupils who are homeless children as defined in s. 228.041(35) ~~s. 228.041(36)~~; pupils whose parent, parents, or guardian are in the federal military service or are civilian employees, the cost of whose education is provided in part or in whole by federal subsidy to state-supported schools; or pupils whose parent, parents, or guardian are migratory agricultural workers. No tuition shall be charged pupils who reside in residential care facilities operated by the Department of Health and Rehabilitative Services and who receive their education under s. 230.23(4)(n).

(Renumber subsequent section.)

And the title is amended as follows:

On page 5, line 4, after the semicolon (;) insert: transferring certain functions from the State Board of Education to the Commissioner of

Education; amending s. 11.42, F.S., relating to the Auditor General; conforming a cross-reference; amending s. 20.15, F.S.; revising duties of the State Board of Education; providing for the Commissioner of Education rather than the State Board of Education to head the Department of Education; providing for the appointment of a Deputy Commissioner for Educational Programs; providing for the appointment of a Deputy Commissioner for Planning, Budgeting, and Management; providing for the Commissioner of Education rather than the State Board of Education to appoint the councils and committees within the Department of Education; amending s. 228.03, F.S., relating to the scope of the state school system; amending s. 228.041, F.S.; granting the Commissioner of Education rulemaking authority for certain programs; amending s. 228.062, F.S.; requiring the commissioner to adopt rules to implement the migrant education program; amending s. 228.081, F.S.; requiring the State Board of Education and the department to provide certain assistance for educational programs of the Department of Juvenile Justice; amending s. 228.086, F.S., relating to regional centers of excellence in mathematics, science, computers, technology, and global awareness; deleting certain requirements; amending s. 228.088, F.S.; requiring the commissioner to adopt rules relating to utilization of security programs; amending s. 228.092, F.S., relating to retention of records of nonpublic school students; amending s. 228.195, F.S.; requiring the commissioner to prescribe rules for school food service programs; amending s. 228.301, F.S.; providing for security of tests administered by commissioner; amending s. 228.502, F.S.; requiring the commissioner to adopt rules for administration of Education Success Incentive program; amending s. 229.011, F.S.; revising certain functions of the state with respect to public education; amending s. 229.053, F.S.; revising the powers and duties of the State Board of Education; requiring the State Board of Education to establish a clearinghouse for information on economic development; amending s. 229.085, F.S., relating to the custody of educational funds; amending s. 229.111, F.S.; providing for the Commissioner of Education to assume the duties of the State Board of Education with respect to the acceptance of gifts; amending s. 229.512, F.S.; revising the duties of the Commissioner of Education; creating s. 229.515, F.S.; authorizing the commissioner to adopt rules having the effect of law; amending s. 229.559, F.S., relating to the use of student's social security numbers; deleting obsolete provisions; amending s. 229.565, F.S.; deleting a requirement that the State Board of Education approve standards of excellence; deleting requirements for an evaluation of the Florida Primary Education Program; amending s. 229.57, F.S.; revising requirements of the student assessment program; amending s. 229.59, F.S.; requiring the commissioner to adopt rules relating to submission of educational improvement projects; amending s. 229.591, F.S.; deleting the name "Blueprint 2000"; amending s. 229.592, F.S., relating to school improvement and education accountability; deleting obsolete provisions; revising provisions relating to exceptions to law; amending s. 229.593, F.S., relating to the Florida Commission on Education Reform and Accountability; amending s. 229.594, F.S.; deleting obsolete provisions; providing the commissioner's role in reviewing components of school improvement and accountability; amending s. 229.602, F.S.; replacing the term "career education" with the term "vocational education"; amending ss. 229.75, 229.76, F.S.; revising duties of the State Board of Education to conform to changes made by the act; amending s. 229.771, F.S.; providing for removal from office by the State Board of Education; amending s. 229.805, F.S.; requiring provision of educational television in accordance with rules adopted by the commissioner; amending s. 229.8051, F.S.; requiring the commissioner to adopt rules for administration of the state public broadcasting system; amending s. 230.03, F.S.; providing commissioner's rulemaking authority regarding the district school system; amending s. 230.22, F.S.; providing commissioner's rulemaking authority regarding the operation of school districts; amending s. 230.23, F.S.; requiring the commissioner to prescribe rules for various programs of school districts; amending s. 230.2305, F.S., relating to the prekindergarten early intervention program; deleting a cross reference; amending s. 230.2316, F.S.; providing for rules of the commissioner relating to second chance schools and add-on certification programs; amending s. 230.23166, F.S.; requiring the commissioner to adopt rules to implement teenage parent program; amending s. 230.2318, F.S.; requiring the commissioner to adopt rules to implement the school resource officer program; amending s. 230.32, F.S.; providing commissioner's authority to adopt rules and to set minimum standards for school operational programs; amending s. 230.321, F.S.; providing commissioner's authority to prescribe duties of superintendents; amending s. 230.33, F.S.; providing commissioner's authority over superintendents; amending s. 230.64, F.S.; requiring the commissioner to prescribe minimum standards for area technical centers; amending s. 230.71, F.S.;

requiring the commissioner to adopt rules implementing intergenerational school volunteer programs; amending s. 232.01, F.S.; requiring rules of the commissioner relating to school attendance; amending s. 232.23, F.S.; providing that procedures for maintenance and transfer of pupil records shall be as prescribed by rules of the commissioner; amending s. 232.2468, F.S.; authorizing the commissioner to adopt rules relating to graduation, habitual truancy, and dropout rates; amending s. 232.247, F.S.; requiring rules of the commissioner relating to special high school graduation requirements for exceptional students; amending s. 232.25, F.S.; requiring rules of the commissioner relating to pupils subject to the control of the school; amending s. 232.303, F.S.; authorizing the commissioner to adopt rules relating to interagency student services; amending s. 232.435, F.S.; requiring the commissioner to approve courses relating to athletic trainers; amending s. 233.011, F.S.; authorizing the commissioner to develop rules to implement accountability provisions; amending s. 233.015, F.S.; requiring the commissioner to adopt rules for conducting purges of courses; amending s. 233.056, F.S.; requiring rules of the commissioner relating to operation of instructional programs for visually impaired students and deaf or hard-of-hearing students; amending s. 233.058, F.S.; requiring the commissioner to adopt rules for English language instruction for limited English proficient students; amending s. 233.061, F.S.; providing the commissioner and the state board authority to adopt rules prescribing required instruction; amending s. 233.067, F.S.; providing that administration of the comprehensive health education and substance abuse prevention program be pursuant to rules adopted by the commissioner; amending s. 233.115, F.S.; providing for adoption of instructional materials by the commissioner; amending s. 233.17, F.S.; authorizing the commissioner to approve by rule certain terms of adoption; amending s. 233.37, F.S.; providing for rules of the commissioner regarding the disposal of instructional materials; amending s. 233.39, F.S.; requiring the commissioner to prescribe rules for the renovation and repair of textbooks; amending s. 234.01, F.S.; providing for transportation of students pursuant to rules adopted by the commissioner; amending s. 234.02, F.S.; providing for rules of the commissioner for the safety and health of pupils being transported by the school district; amending s. 234.03, F.S.; providing for rules of the commissioner relating to tort liability; amending s. 234.051, F.S.; requiring the commissioner to prescribe safety specifications for school buses; amending s. 234.091, F.S.; requiring the commissioner to prescribe general qualifications for school bus drivers; amending s. 234.101, F.S.; requiring the commissioner to adopt requirements for school bus drivers; amending s. 234.301, F.S.; authorizing the commissioner to adopt rules for school bus pool purchases; amending s. 235.01, F.S.; requiring the commissioner to adopt rules for implementation of the Educational Facilities Act; amending s. 235.04, F.S.; requiring the commissioner to adopt rules for the disposal of real property; amending s. 235.056, F.S.; providing for commissioner's requirements for educational facilities; amending s. 235.06, F.S.; directing the commissioner to adopt and administer rules prescribing safety and health standards for occupants of educational facilities; amending s. 235.19, F.S.; directing the commissioner to adopt rules for site planning and selection; amending s. 235.211, F.S.; providing for the commissioner to set standards for educational facilities; amending s. 235.26, F.S.; requiring the commissioner to adopt the uniform building code for public educational facilities construction and granting the commissioner final review of questions, disputes, or interpretations of the uniform code; amending s. 235.31, F.S.; providing for rules of the commissioner relating to prequalification of bidders; amending s. 235.32, F.S.; providing for rules of the commissioner relating to building specifications; amending s. 236.02, F.S.; providing for rules of the commissioner relating to reports, minimum term of operation of schools, employment of personnel, salary schedules, and budgets; amending s. 236.0801, F.S.; providing for commissioner approval of education goal; amending s. 236.081, F.S.; requiring rules of the commissioner relating to funding of public schools; amending s. 236.0811, F.S.; requiring rules of the commissioner relating to a school board's master plan for inservice educational training; amending s. 236.083, F.S.; requiring rules of the commissioner for determination of annual allocation for student transportation; amending s. 236.0841, F.S.; providing for rules of the commissioner regarding employment of certain personnel; amending s. 236.1225, F.S.; providing for rules of the commissioner for governing the gifted education grants program; amending s. 236.13, F.S.; providing for rules of the commissioner governing the expenditure of funds by school boards; amending s. 236.685, F.S.; providing for rules of the commissioner relating to teacher-to-student ratio or class size; amending s. 237.211, F.S.; requiring the commissioner to adopt rules prescribing minimum security standards for the direct deposit of funds; amending s. 237.40, F.S.; providing for rules of the commissioner relating to annual audit of direct-

support organizations; amending s. 316.615, F.S.; providing for rules of the commissioner relating to physical examination requirements for school bus operators; providing that certain rules of the state board in effect June 30, 1997, shall remain in effect until amended or revoked; amending s. 228.121, F.S.; correcting a cross-reference; repealing s. 228.0617, F.S., relating to the school age childcare incentives program; repealing s. 228.085, F.S., relating to the state comprehensive plan for mathematics, science, and computer education;

Amendment 2 (with title amendment)—On page 5, lines 14-21, delete those lines

And the title is amended as follows:

On page 1, lines 4 and 5, delete those lines and insert: district school system; correcting a

On motion by Senator Cowin, by two-thirds vote **CS for HB 137** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Madam President	Crist	Jones	Ostalkiewicz
Bankhead	Dantzler	Kirkpatrick	Rossin
Bronson	Diaz-Balart	Klein	Scott
Brown-Waite	Dudley	Kurth	Silver
Burt	Dyer	Latvala	Thomas
Campbell	Forman	Lee	Turner
Childers	Harris	McKay	Williams
Clary	Horne	Meadows	
Cowin	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Casas, Grant, Hargrett

HB 1933—A bill to be entitled An act relating to workers' compensation; amending s. 440.49, F.S.; revising procedures and requirements for reimbursement from the fund; providing for barring the filing of a claim for reimbursement under certain circumstances; providing a maximum fund assessment rate; requiring certain fees; requiring the Department of Labor and Employment Security to prepare an annual report; providing a schedule for reimbursements from the fund under certain circumstances; amending s. 625.091, F.S.; providing for accounting for anticipated recoveries under the Special Disability Trust Fund; requiring insurers to identify anticipated recoveries from the fund; providing an appropriation; amending s. 624.4621, F.S.; requiring self-insurance funds to maintain a positive surplus to policyholders; amending s. 624.468, F.S.; requiring self-insurance funds to maintain a positive surplus to policyholders; amending s. 624.470, F.S.; establishing standards for the use of future investment income as an asset for self-insurance funds; amending s. 624.476, F.S.; providing that the Department of Insurance may be appointed receiver for a self-insurance fund under certain circumstances; authorizing the administrative supervision of a self-insurance fund under certain conditions; creating s. 624.477, F.S.; requiring the Department of Insurance to supervise, as receiver, the liquidation, rehabilitation, reorganization, conservation, or dissolution of self-insurance funds; amending s. 624.488, F.S.; applying provisions of the Florida Insurance Code relating to rehabilitation and liquidation of an insurer to self-insurance funds; applying provisions relating to insurer assets, liabilities, and deposits to self-insurance funds; applying a provision relating to assessable mutual insurer annual reports to self-insurance funds; amending s. 628.6014, F.S.; establishing standards for the use of future investment income as an asset for assessable mutual insurers; amending s. 631.021, F.S.; providing for delinquency proceedings, venue, remedies, and appeals; amending s. 631.182, F.S.; providing for claims reports and procedures; amending s. 631.331, F.S.; providing for notice, payment, and collection procedure; amending s. 631.391, F.S.; providing for revocation of insurance-related licenses under certain conditions; amending s. 631.397, F.S.; specifying applicability of provision relating to use of marshaled assets; amending s. 631.52, F.S.; providing scope of direct insurance; amending s. 631.54, F.S.; providing definitions; amending s. 631.55, F.S.; providing for creation of the association; amending s. 631.57, F.S.; providing for powers and duties of the association; creating ss. 631.901, 631.902, 631.903, 631.904, 631.911, 631.912,

631.913, 631.914, 631.916, 631.917, 631.918, 631.919, 631.921, 631.922, 631.923, 631.924, 631.926, and 631.927, F.S.; creating the "Florida Workers' Compensation Insurance Guaranty Association Act"; providing purposes; providing construction; providing definitions; creating the Florida Workers' Compensation Insurance Guaranty Association, Incorporated, by merging the Florida Self-Insurance Fund Guaranty Association and the workers' compensation insurance account; providing for effect of the merger; providing requirements; providing for a board of directors; providing powers and duties of the corporation; authorizing the board to levy assessments for certain purposes; providing procedures; providing requirements and limitations; authorizing an additional assessment for certain purposes; providing procedures; providing requirements and limitations; requiring the board to prepare a plan of operation; providing requirements; providing powers of the board to prevent insolvencies and impairments; providing for examination of certain insurers by the department for certain purposes; providing immunity from liability; specifying prohibited advertisement of solicitation; providing powers of the Department of Insurance; providing for liability of members of impaired self-insurance funds; providing for effect of paid claims; providing requirements; providing procedures; providing for staying certain proceedings; providing for setting aside certain judgments, orders, decisions, verdicts, or findings under certain circumstances; providing for nonapplication of certain attorney's fees provisions under certain circumstances; providing for assumption of liability by the corporation of certain payments; amending s. 631.996, F.S.; creating the Florida Workers' Compensation Insurance Guaranty Fund Account; amending s. 631.915, F.S.; revising definitions; amending s. 631.935, F.S.; providing for powers and duties of the association; creating s. 631.929, F.S.; providing for election of remedies by injured workers; providing procedures; providing requirements; amending s. 631.997, F.S.; providing for reports and recommendations of the board; amending s. 631.998, F.S.; providing for application of provisions relating to negotiations with an insurer to the corporation; directing that certain provisions not be published in the Florida Statutes; provides for a report; providing an appropriation from the Insurance Commissioner's Regulatory Trust Fund to the Florida Self-Insurance Fund Guaranty Association; providing for disbursement of appropriated funds; repealing ss. 631.90, 631.905, 631.91, 631.915, 631.92, 631.925, 631.93, 631.935, 631.94, 631.945, 631.95, 631.955, 631.96, 631.965, 631.97, 631.975, 631.98, 631.985, 631.99, and 631.995, F.S., relating to the Florida Self-Insurance Fund Guaranty Association; providing an effective date.

—was read the third time by title.

On motion by Senator Diaz-Balart, **HB 1933** was passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Silver
Campbell	Forman	Klein	Sullivan
Casas	Grant	Kurth	Thomas
Childers	Gutman	Latvala	Turner
Clary	Hargrett	Lee	Williams
Cowin	Harris	McKay	

Nays—None

CS for CS for SB 2142—A bill to be entitled An act relating to health quality assurance; amending s. 20.43, F.S.; changing the effective date for the establishment of the Division of Medical Quality Assurance; authorizing the Department of Health to contract with the Agency for Health Care Administration; amending s. 11, ch. 96-403, Laws of Florida; revising the list of functions transferred from the agency to the department; creating s. 455.401, F.S.; providing intent relating to health care practitioner regulation; amending s. 112.0455, F.S., relating to the Drug-Free Workplace Act; providing background screening requirements and standards for laboratories that perform tests; authorizing the use of certain body hair for drug testing; amending ss. 381.026, 381.0261, 383.302, 383.305, 390.011, 390.015, 391.206, 393.063, 393.0657, 394.4787, 394.67, 394.875, 394.876, 395.002, 395.0163, 395.0193, 395.0197, 395.0199, 400.071, 400.411, 400.414, 400.417, 400.4174, 400.4176, 400.461, 400.462, 400.464, 400.471, 400.474,

400.484, 400.487, 400.497, 400.506, 400.509, 400.512, 400.555, 400.606, 400.619, 400.801, 400.805, 408.033, 483.101, 483.106, 483.30, F.S.; creating ss. 381.60225, 395.0055, 400.5572, F.S.; transferring, renumbering, and amending ss. 626.941, 626.942, 626.943, 626.944, 626.945, F.S.; providing background screening requirements and standards for organ procurement organizations and tissue and eye banks, birth centers, abortion clinics, prescribed pediatric extended care centers, facilities for the developmentally disabled, facilities for treating alcohol and drug abuse and for mental health services, crisis stabilization units and residential treatment facilities, hospitals, private review agents, nursing homes and related facilities, assisted living facilities, direct-care employees, home health agencies, nurse registries, providers of certain home services, adult day care centers, hospices, adult family-care homes, homes for special services, transitional living facilities, clinical laboratories, and multiphasic health testing centers; amending grounds for denial and revocation of licensure or registration for such entities; allowing limited reporting of certain confidential information relating to the internal risk management programs of hospitals and ambulatory surgical centers; transferring duties pertaining to health care risk management from the Insurance Commissioner to the Director for Health Care Administration; amending fees and procedures relating to qualifications for health care risk managers; amending the Florida patient's Bill of Rights and Responsibilities; providing information about filing complaints with licensing agencies; limiting applicability of the Patient's Bill of Rights to health care facilities licensed under ch. 395, F.S., that provide emergency care and outpatient care; imposing a fine on facilities for willful and nonwillful violations of the obligation to inform patients of their rights; requiring certain outpatient facilities to submit construction plans to the Agency for Health Care Administration for review; amending provisions relating to who must make application for licensure and for a certificate of exemption on behalf of a clinical laboratory; amending s. 394.4787, F.S.; relating to certain specialty psychiatric hospitals; conforming a cross-reference; deleting the definition of the terms "adverse or untoward incident" and "injury"; revising provisions relating to licensed facility peer review disciplinary actions against practitioners; requiring reports to the Agency for Health Care Administration; providing penalties; revising provisions relating to internal risk management; defining the term "adverse incident"; requiring licensed facilities to make certain reports to the agency; providing an exemption from the Public Records Law; including minors in provisions relating to notification of sexual misconduct or abuse; requiring facility corrective-action plans; amending ss. 395.602, 395.701, 400.051, F.S., relating to rural hospitals, the Public Medical Assistance Trust Fund, and nursing homes; conforming cross-references; amending ss. 408.072, 409.905, 440.13, F.S., relating to hospital budget review, Medicaid services, and a worker's compensation definition, respectively; conforming cross-references and terms; amending ss. 458.331, 459.015, 468.505, F.S., relating to grounds for disciplinary action against allopathic physicians and osteopathic physicians and relating to restrictions on practice, service, or activities of allopathic physicians, osteopathic physicians, and other specified professionals; conforming provisions; repealing s. 455.239, F.S., relating to licensure requirements for designated health care services; amending ss. 641.55, 766.1115, F.S., relating to internal risk-management programs of health maintenance organizations and contract requirements for certain health care governmental contractors, respectively; conforming cross-references; exempting specified health care providers from certain assessments on health care entities; creating s. 458.351, F.S.; requiring licensure of any physician, wherever located, who has primary authority over the care or diagnosis of a patient located in this state; providing an exception; providing applicability with respect to transmission of radiographic images; transferring the health care risk manager licensure program from the Department of Insurance to the Agency for Health Care Administration; allocating positions to the Agency for Health Care Administration for specified purposes; providing appropriations from the Health Care Trust Fund; amending s. 400.702, F.S.; deleting a requirement that certain intermediate-level care facilities accept only certain low-income residents who receive subsidized housing vouchers; requiring physicians, osteopathic physicians, podiatrists, and chiropractors to furnish specified biographical and other data to the Department of Health; requiring the department to verify certain of the information and compile the information submitted and other public record information into a practitioner profile of each licensee and to make the profiles available to the public; providing for rules; providing duties of practitioners to update information and duties of the department to update profiles; providing for retention of information in superseded profiles; amending ss. 458.311, 458.313, 458.319, F.S.; requiring applicants for licensure or relicensure as physicians to submit information, fingerprints, and fees; providing for citations to, and fines of, cer-

tain practitioners; amending ss. 459.0055, 459.008, F.S.; requiring applicants for licensure or relicensure as osteopathic physicians to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 460.406, 460.407, F.S.; requiring applicants for licensure or relicensure as chiropractors to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending s. 461.006, 461.007, F.S.; requiring applicants for licensure or relicensure as podiatrists to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending s. 455.225, F.S.; providing legislative intent; revising procedures to discipline professionals; requiring the Agency for Health Care Administration or appropriate regulatory boards to establish plans to resolve incomplete investigations or disciplinary proceedings; amending ss. 458.320, 459.0085, F.S.; requiring the agency to issue an emergency order suspending the license of a physician or osteopathic physician for certain violations; amending s. 455.2285, F.S.; requiring additional information in the annual report by the department and by the agency; creating s. 455.2478, F.S.; providing that reports on professional liability actions and information relating to bankruptcy proceedings of specified health care practitioners which are in the possession of the Department of Health are public records; requiring the department to make such information available to persons who request it; amending s. 627.912, F.S.; providing for insurer reporting of professional liability claims and actions; revising the timeframe for reporting; providing penalties; providing for a toll-free telephone number for reporting complaints relating to medical care; providing applicability; amending ss. 458.316, 458.3165, 458.317, F.S.; conforming cross-references; providing effective dates.

—as amended April 29 was read the third time by title.

Senator Forman moved the following amendments which were adopted by two-thirds vote:

Amendment 1—On page 10, line 26, after the comma (,) insert: *but not including personnel, property, and unexpended balances of appropriations related to consumer complaints, investigative and prosecutorial services,*

Amendment 2—On page 195, lines 16-23, delete those lines and insert: *exempt from licensure as provided in s. 458.303(1)(b).*

On motion by Senator Forman, **CS for CS for SB 2142** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Horne	Myers
Bankhead	Dantzler	Jenne	Ostalkiewicz
Bronson	Diaz-Balart	Jones	Rossin
Brown-Waite	Dudley	Kirkpatrick	Silver
Burt	Dyer	Klein	Sullivan
Campbell	Forman	Kurth	Thomas
Casas	Grant	Latvala	Turner
Childers	Hargrett	Lee	Williams
Clary	Harris	McKay	
Cowin	Holzendorf	Meadows	

Nays—None

HB 2013—A bill to be entitled An act relating to regulation of health care professions; amending s. 402.48, F.S., relating to health care services pools; increasing the period of registration; updating a definition and a provision relating to meeting financial responsibility requirements; amending s. 457.102, F.S.; revising definitions applicable to the regulation of acupuncture; amending s. 457.105, F.S.; revising qualifications for licensure to practice acupuncture; revising fees; conforming terminology; amending s. 457.107, F.S.; revising licensure renewal fees; conforming terminology; amending s. 457.1085, F.S.; revising requirements on the adoption of rules relating to infection control and on the use of acupuncture needles; amending ss. 457.103, 457.108, 457.109, and 457.116, F.S., to conform; amending s. 458.303, F.S.; eliminating references to physician's trained assistants; amending s. 458.305, F.S.; updating the definition of "department"; amending s. 458.307, F.S.; revising provisions relating to probable cause panels of the Board of Medicine; amending s. 455.206, F.S.; correcting a cross reference, to conform;

amending s. 458.311, F.S.; revising requirements for licensure of physicians by examination; revising an educational and postgraduate training requirement; allowing certain applicants to complete a specified fellowship to partially satisfy the licensing requirements; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; authorizing persons in certain training programs to take the examination under certain circumstances; amending s. 458.313, F.S.; revising requirements for licensure of physicians by endorsement; eliminating a provision authorizing oral examinations; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; authorizing additional requirements prior to certification of eligibility for licensure; correcting a cross reference; eliminating a provision authorizing licensure under a period of supervision; providing conditions for reactivation of certain licenses issued by endorsement; amending s. 458.317, F.S., relating to limited licenses; eliminating the requirement that applicants for a limited license be retired from the practice of medicine; restricting certain limited licensees to noncompensated practice; requiring the payment of fees if a person receives compensation for the practice of medicine; amending s. 458.319, F.S.; clarifying requirements for renewal of license to practice medicine; revising recent-practice requirements; amending s. 458.320, F.S.; correcting a cross reference; requiring physicians not carrying medical malpractice insurance to post notice and provide a written statement thereof; providing for acknowledgment that the patient has been so informed; amending s. 458.331, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 458.3312, F.S.; prohibiting physicians from falsely representing that they are board-certified specialists; amending s. 458.345, F.S., relating to registration of resident physicians, interns, and fellows; providing for designation of a person responsible at each hospital using such residents for the hospital's semiannual reports to the department; requiring certain notice to the executive director of the board; providing that registrants are subject to specified disciplinary provisions; providing requirements for the prescribing of medicinal drugs and controlled substances; amending s. 458.346, F.S.; providing for meetings of the Public Sector Physician Advisory Committee; amending ss. 458.347 and 459.022, F.S.; revising requirements for certification as a physician assistant; updating terminology; amending s. 458.3485, F.S.; requiring medical assistants to be under the direct supervision of a licensed physician; creating ss. 458.351 and 459.025, F.S.; requiring serious incident reports; providing for rules; amending s. 459.003, F.S.; updating the definition of "department"; providing that certain terms are equivalent; amending s. 459.021, F.S.; revising terminology relating to osteopathic medicine; revising provisions relating to registration of resident physicians, interns, and fellows; providing for designation of a person responsible at each hospital using such residents for the hospital's semiannual reports to the department; requiring certain notice to the executive director of the board; providing that registrants are subject to specified disciplinary provisions; providing conditions under which resident physicians may prescribe medicinal drugs; amending s. 459.0075, F.S., relating to limited licenses; eliminating the requirement that applicants for a limited license be retired from the practice of osteopathic medicine; restricting certain limited licensees to noncompensated practice; requiring the payment of fees if a person receives compensation for the practice of osteopathic medicine; amending s. 459.0085, F.S.; correcting a cross reference; requiring osteopathic physicians not carrying medical malpractice insurance to post notice and provide a written statement thereof; providing for acknowledgment that the patient has been so informed; amending s. 459.015, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 459.0152, F.S.; prohibiting osteopathic physicians from falsely representing that they are board-certified specialists; amending ss. 240.4067, 390.011, 395.0191, 408.035, 409.905, 415.102, 415.1034, 415.504, 440.106, 440.13, 440.134, 440.15, 456.31, 459.006, 462.01, 468.301, 468.302, 476.044, 477.0135, 483.291, 621.03, 627.351, 627.357, 627.6482, 725.01, 766.101, 766.103, 766.105, 766.110, 817.234, and 945.047, F.S.; conforming and correcting terminology relating to osteopathic medicine; amending s. 460.403, F.S.; updating the definition of "department"; amending s. 460.413, F.S.; revising grounds for disciplinary action; providing penalties; providing criteria for determining the applicable penalty; providing certain evidentiary standards; providing authority and procedure to enjoin a chiropractor from providing medical services under certain circumstances; reenacting ss. 320.0848(9), 455.236(4)(g), and 766.111(2), F.S., relating to parking permits for disabled persons, prohibited referrals to home health agencies, and unnecessary diagnostic testing, to incorporate the amendment to s. 460.413, F.S., in references thereto; amending s. 460.4165, F.S.; revising a provision relating to the fee accompanying applications to supervise chiro-

practic physician's assistants; amending s. 461.003, F.S.; updating the definition of "department"; amending s. 461.013, F.S.; revising a ground for disciplinary action; providing penalties; amending s. 461.018, F.S.; clarifying a provision relating to the limited practice of podiatry in designated areas of need; amending s. 464.003, F.S.; revising a definition to update authority over regulation of nursing; amending ss. 464.004, 464.008, 464.009, 464.012, 464.013, and 464.014, F.S., to conform; amending s. 464.018, F.S.; revising grounds for disciplinary action; providing penalties; conforming terminology; amending s. 464.019, F.S., relating to approval of nursing programs; providing for a program review fee; conforming terminology; creating s. 464.0205, F.S.; providing for certification of retired volunteer nurses; providing requirements, qualifications, fees, and restrictions; amending s. 464.022, F.S.; providing an exemption from regulation relating to certain nurses accompanying and caring for patients temporarily residing in this state; amending s. 465.003, F.S.; updating the definition of "department"; amending s. 465.004, F.S.; increasing the membership of the Board of Pharmacy; revising membership qualifications; amending s. 465.014, F.S.; 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 a ground for disciplinary action; providing penalties; amending s. 465.035, F.S.; allowing the dispensing of controlled substances based on electronic facsimiles of the original prescriptions; amending s. 466.003, F.S.; updating the definition of "department"; amending s. 466.006, F.S., relating to the examination of dentists; revising prerequisites for certain applicants to take the examination; amending s. 466.017, F.S.; eliminating obsolete provisions relating to the utilization of general anesthesia and parenteral conscious sedation by licensed dentists; amending s. 466.028, F.S.; revising grounds for disciplinary action; providing penalties; amending s. 468.1115, F.S.; revising and providing exemptions from regulation as a speech-language pathologist or audiologist; amending s. 468.1125, F.S.; updating the definition of "department"; amending s. 468.1155, F.S.; revising provisional licensure requirements; providing requirements for cross-discipline licensure; amending s. 468.1185, F.S.; revising licensure requirements; conforming a reference; amending s. 468.1195, F.S.; revising continuing education requirements; providing for adoption of standards of approval of continuing education providers; creating s. 468.1201, F.S.; requiring instruction on human immunodeficiency virus and acquired immune deficiency syndrome as a condition of being granted a license or certificate to practice speech-language pathology or audiology; amending s. 468.1215, F.S.; revising requirements for certification as a speech-language pathology or audiology assistant; conforming a reference; amending s. 468.1245, F.S.; revising language relating to certain complaints concerning hearing aids; amending s. 468.1295, F.S.; revising and providing grounds for disciplinary action; revising and providing penalties; creating s. 468.1296, F.S.; prohibiting sexual misconduct in the practice of speech-language pathology and audiology, for which there are penalties; amending s. 468.1655, F.S.; updating the definition of "department"; amending s. 468.1695, F.S.; reducing the number of times a year the examination for licensure as a nursing home administrator must be given; amending s. 468.203, F.S.; revising definitions applicable to regulation of occupational therapy; amending s. 468.205, F.S.; replacing the Occupational Therapy Council with a Board of Occupational Therapy Practice; providing for qualifications, appointments, and terms of board members; providing for the filling of vacancies on the board; amending s. 468.209, F.S.; revising educational requirements for licensure as an occupational therapist or occupational therapy assistant; providing for licensure of certain applicants without meeting such educational requirements; providing for certain temporary permits; requiring documentation of continuing education for certain applicants; amending s. 468.211, F.S.; providing a restriction on the number of times an applicant may fail the examination and requiring remediation after a certain number; amending s. 468.213, F.S.; revising requirements for licensure by endorsement; amending s. 468.225, F.S.; providing exemptions from regulation of occupational therapy; amending ss. 468.351, 468.352, 468.354, 468.355, 468.356, 468.357, 468.358, 468.359, 468.36, 468.361, 468.363, 468.364, 468.365, 468.366, and 468.368, F.S., and transferring and amending s. 468.362, F.S.; providing for licensure of respiratory care practitioners and respiratory therapists; eliminating references to certification and registration; updating the definition of "department"; revising terminology; revising approval of educational programs; eliminating annual continuing education requirements for certain persons; providing penalties; amending s. 478.42, F.S.; updating the definition of "department"; amending s. 478.45, F.S.; revising requirements for licensure as an electrologist; amending s. 478.46, F.S.;

revising requirements relating to issuance of temporary permits; correcting a cross reference and terminology; amending s. 478.47, F.S.; revising requirements for licensure by endorsement; amending s. 478.52, F.S.; prohibiting the operation of unlicensed electrolysis facilities; providing penalties; amending s. 480.033, F.S.; revising the definition of "board"; updating the definition of "department"; amending s. 480.034, F.S.; eliminating an exemption from regulation applicable to certain skin treatments and weight-loss programs; amending s. 480.035, F.S.; renaming the Board of Massage as the Board of Massage Therapy; amending s. 480.041, F.S.; eliminating provisional licensure to practice massage therapy; amending s. 480.0415, F.S.; authorizing an increase in the number of classroom hours of continuing education that may be required for renewal of a license to practice massage therapy; amending s. 480.042, F.S.; revising what examinations must measure; repealing s. 480.0425, F.S., relating to inactive status; amending s. 480.043, F.S.; revising provisions relating to the transfer of licenses; amending s. 480.044, F.S.; revising provisions relating to fees; amending s. 480.047, F.S.; prohibiting the practice of massage therapy without a license unless exempted from licensure; creating s. 480.0485, F.S.; prohibiting sexual misconduct in the practice of massage therapy, for which there are disciplinary actions; amending s. 20.43, F.S., relating to the Department of Health; conforming terminology; updating a reference; amending s. 381.81, F.S., to conform; amending s. 483.800, F.S.; revising policy and purpose relating to regulation of clinical laboratory personnel; amending s. 483.801, F.S.; providing a regulatory exemption relating to advanced registered nurse practitioners; amending s. 483.803, F.S.; updating the definition of "department"; providing definitions; amending s. 483.809, F.S.; revising licensing provisions; authorizing an alternative examination for public health laboratory scientists; creating s. 483.812, F.S.; providing for licensure of public health laboratory scientists; amending s. 483.813, F.S.; extending the period of a temporary license for clinical laboratory personnel; providing a period for a conditional license; amending s. 483.823, F.S.; revising provisions relating to qualifications of clinical laboratory personnel; amending s. 483.825, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 483.828, F.S.; providing penalties for specified violations; amending s. 483.901, F.S., the "Florida Medical Physicists Act"; providing that the Advisory Council of Medical Physicists is an advisory rather than a regulatory body; increasing the number and terms of council members; clarifying initial and other appointment provisions; revising provisions relating to council meetings; revising licensure requirements; clarifying that the required continuing education hours are to be satisfied biennially and that the organizations providing such education must be approved by the Department of Health; revising and providing grounds for disciplinary action; revising and providing criminal acts; providing an administrative fine; providing penalties; eliminating a provision authorizing a licensure exception; amending s. 484.041, F.S.; updating the definition of "department"; amending s. 484.042, F.S.; updating a reference, to conform; amending s. 484.051, F.S.; updating a reference, to conform; amending s. 486.021, F.S.; updating the definition of "department"; amending s. 486.023, F.S.; increasing the membership of the Board of Physical Therapy Practice; amending ss. 486.031 and 486.081, F.S.; providing an alternative licensure examination; revising accreditation provisions relating to licensure as a physical therapist; amending s. 486.041, F.S.; revising provisions relating to applying for a license as a physical therapist and to the fee therefor; amending s. 486.051, F.S.; revising provisions relating to examination of applicants for licensure as a physical therapist; amending s. 486.102, F.S.; revising accreditation provisions relating to licensure as a physical therapist assistant; amending s. 486.103, F.S.; revising provisions relating to applying for a license as a physical therapist assistant and to the fee therefor; amending s. 486.104, F.S.; revising provisions relating to examination of applicants for licensure as a physical therapist assistant; creating s. 486.123, F.S.; prohibiting sexual misconduct in the practice of physical therapy, for which there are disciplinary actions; amending s. 486.125, F.S.; providing for recovery of the actual costs of investigation and prosecution; amending s. 641.495, F.S.; requiring a health maintenance organization to designate as medical director a state-licensed physician or osteopathic physician; amending s. 499.012, F.S.; clarifying and providing for additional wholesale distribution exceptions; providing an effective date.

—as amended April 29 was read the third time by title.

Senator Hargrett moved the following amendment to **Engrossed Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 1 (with title amendment)—On page 273, between lines 26 and 27, insert:

Section 217. 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 or her supervision. *A pharmacy technician, under the supervision of a pharmacist, may initiate or receive communications with a practitioner or his or her agent, on behalf of a patient, regarding refill authorization requests.* 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 two pharmacy technicians.

(Renumber subsequent section.)

And the title is amended as follows:

On page 291, line 1, after the semicolon (;) insert: amending s. 465.014, F.S.; amending the duties of pharmacy technicians;

On motion by Senator Jones, **HB 2013** as amended was passed and certified to the House. The vote on passage was:

Yeas—33

Madam President	Cowin	Jenne	Ostalkiewicz
Bankhead	Crist	Jones	Silver
Bronson	Dantzler	Kirkpatrick	Sullivan
Brown-Waite	Dudley	Klein	Thomas
Burt	Dyer	Kurth	Turner
Campbell	Grant	Latvala	Williams
Casas	Hargrett	Lee	
Childers	Holzendorf	Meadows	
Clary	Horne	Myers	

Nays—None

Vote after roll call:

Yea—Forman, Gutman, Harris, McKay

The Senate resumed consideration of—

SB 1648—A bill to be entitled An act relating to public television and radio; prohibiting a public television or radio station funded by the state from merging with or allowing the use of its facilities by a private non-profit institution of higher learning; providing an effective date.

—which was previously considered this day. Pending **Amendment 2** by Senator Rossin was withdrawn.

Senator Rossin moved the following amendment:

Amendment 3 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsection (3) is added to section 235.40, Florida Statutes, to read:

235.40 Radio and television facilities.—

(3) *In fiscal year 1997-1998, state funding associated with Public Broadcasting Grants and Aids, General Appropriations Act, for South Florida Telecommunications, Inc. (WXEL-TV/FM, Channel 42), may be used to establish participation by the in the purchase of South Florida Telecommunications, Inc. (WXEL-TV/FM). It is not the intent of this language to interfere with any agreement approved by the State Board of Education between the State of Florida, South Florida Telecommunications, Inc., and Barry Telecommunications, Inc.*

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to public television and radio; providing for redirection of funds allocated for fiscal year 1997-1998 to South Florida Telecommunications, Inc.; providing an effective date.

On motion by Senator Rossin, further consideration of **SB 1648** with pending **Amendment 3** was deferred.

HB 1357—A bill to be entitled An act relating to the Department of Health; amending s. 20.43, F.S.; renaming certain divisions within the department; creating a Division of Local Health Planning, Education, and Workforce Development; authorizing certain use of state or federal funds to protect and improve public health; transferring powers and duties relating to rural health networks, local health councils, and the Statewide Health Council from the Agency for Health Care Administration to the department; authorizing certain budget flexibility; amending s. 154.04, F.S.; authorizing county health departments to establish peer review committees for certain purposes; amending s. 154.06, F.S.; removing requirement that county health department fees cover costs; amending ss. 110.131, 216.341, 232.465, 240.4075, 381.0065, 381.0302, 381.0405, 381.0055, 395.401, 401.107, 401.111, 401.117, 401.23, 401.245, 401.265, 403.703, 404.031, 404.051, 404.0614, 404.131, 404.20, 414.23, 414.38, 458.316, 468.301, 468.314, and 514.011, F.S.; revising and conforming language and references relating to the public health functions of the department; deleting obsolete language; amending s. 240.4076, F.S.; revising operation of the nursing scholarship loan program; amending s. 381.0101, F.S.; revising requirements relating to professional standards, continuing education, and certification of environmental health professionals; revising certification fees; providing for denial, suspension, or revocation of a certificate; providing for fines; amending s. 381.0203, F.S.; providing for a contraceptive distribution program; specifying eligibility requirements; providing for fees; providing for rules; amending ss. 381.0406 and 381.04065, F.S.; conforming transfer of rural health programs to the department; amending s. 381.0407, F.S.; clarifying reimbursement to county health departments by Medicaid providers; amending s. 383.3362, F.S., relating to Sudden Infant Death Syndrome; deleting requirement for visits by county public health nurses or social workers; deleting an advisory council; revising duties of the department; amending s. 385.202, F.S.; revising requirements relating to reporting and analysis of reports to the statewide cancer registry; amending s. 385.203, F.S.; clarifying relationship of the Diabetes Advisory Council to the Board of Regents; deleting requirement for an annual diabetes state plan; amending s. 392.52, F.S.; revising definitions; creating s. 392.551, F.S.; providing that parental consent is not required to examine a minor for tuberculosis; amending s. 392.565, F.S.; revising conditions for imposing an involuntary hold on a person for tuberculosis; amending s. 392.62, F.S.; providing for forensic units in tuberculosis hospitals; amending s. 395.3025, F.S.; expanding the department's authority to examine records of licensed facilities; increasing a penalty for unauthorized disclosure of information; amending s. 401.252, F.S.; providing requirements for interfacility transport of certain infants; providing for rules for interfacility transport; amending s. 401.27, F.S.; providing for inactive status of emergency medical technician and paramedic certificates; providing for reactivation and renewal; providing a fee; amending and renumbering s. 402.105, F.S., relating to biomedical and social research; amending and renumbering s. 402.32, F.S., relating to the school health services program; amending and renumbering s. 402.321, F.S., relating to funding for school health services; amending s. 402.41, F.S., relating to educational materials and training in human immunodeficiency virus infection and acquired immune deficiency syndrome; amending and renumbering s. 402.475, F.S., relating to the osteoporosis prevention and education program; amending and renumbering s. 402.60, F.S., relating to insect sting emergency treatment; amending and renumbering s. 402.61, F.S., relating to regulation of tanning facilities; amending s. 404.056, F.S.; providing penalties for certain fraud, deception, or misrepresentation in performing radon measurements or mitigation; amending s. 404.22, F.S.; reducing the frequency of inspections required for certain radiation machines; amending s. 408.033, F.S.; providing for the transfer of funds to support the local health councils; amending s. 408.701, F.S.; expanding the definition of "health care provider" for purposes of community health purchasing; amending s. 409.905, F.S.; specifying family planning services provided under the Medicaid program; amending s. 409.908, F.S.; deleting obsolete repeal provision; amending s. 414.026, F.S.; adding the Secretary of Health to the State Board of Directors of the WAGES Program; amending s. 468.3101, F.S.; providing additional grounds for

disciplinary action against a radiologic technologist; providing penalties; amending s. 489.553, F.S.; revising requirements for registration of septic tank contractors; amending s. 514.028, F.S.; providing for reimbursement for travel expenses for members of the advisory review board on swimming and bathing facilities; amending s. 627.4236, F.S.; transferring rulemaking authority relating to bone marrow transplant procedures to the Agency for Health Care Administration; amending s. 766.101, F.S.; including certain committees of a county health department, healthy start coalition, or certified rural health network within the definition of "medical review committee"; amending s. 766.314, F.S.; exempting public health physicians from assessments that finance the Florida Birth-Related Neurological Injury Compensation Plan; amending s. 945.602, F.S.; providing for assignment of the Correctional Medical Authority to the department for administrative purposes; transferring to the department powers and duties of the Correctional Medical Authority; amending ss. 28.101, 28.222, 63.062, 382.003, 382.004, 382.007, 382.011, 382.0135, 382.021, 382.022, 382.023, 382.356, 383.2161, 402.40, 460.414, 742.10, and 742.16, F.S.; revising and conforming language and references relating to the department's responsibility for vital records and statistics; amending s. 63.165, F.S.; consolidating provisions relating to the state registry of adoption information; amending s. 68.07, F.S.; revising procedures relating to change of name; amending s. 382.002, F.S.; revising definitions; amending s. 382.005, F.S.; revising duties of local registrars; amending s. 382.006, F.S.; revising duties of funeral directors with respect to burial-transit permits; restricting issuance thereof if death occurred from a communicable disease; providing authority of certifications of death certificates issued in other states or countries; eliminating provisions relating to permits for disinterment and reinterment; amending s. 382.008, F.S., relating to death and fetal death certificates; providing for entry of aliases; requiring certain persons to provide medical information regarding a fetal death within a specified period; providing for extensions of time for certification of cause of death; providing for temporary death certificates; requiring certificates to contain information required for legal, social, and health research purposes; amending s. 382.012, F.S.; providing requirements for a petitioner seeking a presumptive death certificate; amending s. 382.013, F.S.; revising provisions and requirements relating to registration of a live birth, paternity, and the name of the child; amending s. 382.015, F.S.; revising provisions relating to new certificates of live birth; revising procedures for annulment of adoptions and determination of paternity; providing for filing of a new birth certificate upon receipt of an order of affirmation of parental status; providing for the form of original, new, and amended birth certificates; providing for rules; amending s. 382.016, F.S.; revising provisions relating to amendment of birth and death records; amending s. 382.017, F.S.; revising procedures relating to registration of birth certificates for adopted children of foreign birth; amending and renumbering s. 382.018, F.S.; revising procedures and requirements relating to issuance of delayed birth certificates; amending s. 382.019, F.S.; revising procedures and requirements relating to the delayed registration of a death or birth certificate; amending s. 382.025, F.S.; revising procedures and requirements relating to issuance of certified copies of birth and death records; providing requirements and restrictions for sharing vital records with a research entity; providing for rules; creating s. 382.0255, F.S.; providing for fees for searching and processing vital records; revising and consolidating provisions relating thereto; amending s. 382.026, F.S.; revising and expanding penalties; providing for rules; amending s. 741.041, F.S.; conforming provisions relating to the period of validity of marriage licenses; repealing s. 110.1125, F.S., relating to a requirement to provide information on human immunodeficiency virus infection and acquired immune deficiency syndrome to state employees; repealing s. 381.698, F.S., relating to "The Florida Blood Transfusion Act"; repealing s. 381.81, F.S., relating to the "Minority Health Improvement Act"; repealing s. 382.014, F.S., relating to contents, form, and disclosure of birth certificates; repealing s. 382.024, F.S., relating to departmental accounting of dissolution of marriage fees and charges; repealing s. 382.027, F.S., relating to voluntary registration of adoption information; repealing ss. 387.01, 387.02, 387.03, 387.04, 387.05, 387.06, 387.07, 387.08, 387.09, and 387.10, F.S., relating to permits for draining surface water or sewage into underground waters of the state, penalties for polluting water supplies or surface or underground waters, septic tank construction requirements, and injunction proceedings; repealing s. 402.37, F.S., relating to the medical manpower clearinghouse grant program; repealing s. 403.7045(1)(e), F.S., relating to activities regulated under the "Florida Hazardous Substances Law" exempted from environmental regulation; repealing ss. 501.061, 501.065, 501.071, 501.075, 501.081, 501.085, 501.091, 501.095, 501.101, 501.105, 501.111, 501.115, and 501.121, F.S., relating to the "Florida Hazardous Substances Law"; repealing s.

501.124, F.S., relating to art or craft material containing toxic substances and labeling requirements therefor; repealing s. 766.1115(12), F.S., as created by section 1 of ch. 92-278, Laws of Florida, relating to the scheduled repeal of the "Access to Health Care Act"; providing an effective date.

—as amended April 29 was read the third time by title.

Senator Brown-Waite moved the following amendment to **Engrossed Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 1—On page 246, lines 21-29, delete those lines and insert:

(4) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any insurer reporting hereunder or its agents or employees or the department or its employees for any action taken by them ~~under pursuant to~~ this section. *The department may impose a fine of \$250 per day per case, not to exceed \$1,000 per case, against an insurer that violates the requirements of this section. This subsection applies to claims accruing on or after October 1, 1997.*

Senator Bankhead moved the following amendment to **Engrossed Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 2—On page 130, line 12, after "January 1, 1998" insert: *, but shall be prohibited from serving Medicaid recipients on a prepaid basis, until such licensure has been obtained*

On motion by Senator Brown-Waite, **HB 1357** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Crist	Holzendorf	Rossin
Bankhead	Dantzler	Horne	Scott
Bronson	Diaz-Balart	Jenne	Silver
Brown-Waite	Dudley	Jones	Sullivan
Burt	Dyer	Kirkpatrick	Thomas
Campbell	Forman	Kurth	Turner
Casas	Grant	Latvala	Williams
Childers	Gutman	Lee	
Clary	Hargrett	Myers	
Cowin	Harris	Ostalkiewicz	

Nays—None

Vote after roll call:

Nay—McKay

CS for SB 508—A bill to be entitled An act relating to Medicaid provider agreements; amending s. 409.907, F.S.; requiring state and national criminal-history checks of those who apply to be providers; providing an exemption from a criminal history record check for directors of certain not-for-profit corporations or organizations; allowing the Agency for Health Care Administration to permit an applicant to become a provider pending the results of such checks, and to revoke permission in specified circumstances; providing exemptions from the background-screening requirements for certain providers and under certain circumstances; amending s. 409.920, F.S.; increasing the penalty for knowingly submitting false or misleading information to Medicaid for purposes of being accepted as a Medicaid provider; repealing s. 409.912(31), F.S., relating to Medicaid recipient selection of provider entities; providing an effective date.

—as amended April 29 was read the third time by title.

Senator Brown-Waite moved the following amendments which were adopted by two-thirds vote:

Amendment 1 (with title amendment)—On page 3, between lines 19 and 20, insert:

6. Any business that derives more than 50 percent of its revenue from the sale of goods to the final consumer, and the business or its controlling parent either is required to file a form 10-K or other similar statement with the Securities and Exchange Commission or has a net worth of \$50 million or more.

And the title is amended as follows:

On page 1, line 8, after "organizations" insert: and for certain businesses

Amendment 2 (with title amendment)—On page 9, between lines 16 and 17, insert:

Section 4. Subsections (6) through (11) of section 409.9122, Florida Statutes, 1996 Supplement, are redesignated as subsections (7) through (12), respectively, and a new subsection (6) is added to that section to read:

409.9122 Mandatory Medicaid managed care enrollment; programs and procedures.—

(6) *MediPass enrolled recipients may receive up to 10 visits of reimbursable services by participating Medicaid physicians licensed under chapter 460 and up to four visits of reimbursable services by participating Medicaid physicians licensed under chapter 461. Any further visits must be by prior authorization by the MediPass primary care provider. However, nothing in this subsection may be construed to increase the total number of visits or the total amount of dollars per year per person under current Medicaid rules, unless otherwise provided for in the General Appropriations Act.*

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, line 19, after the semicolon (;) insert: amending s. 409.9122, F.S.; providing visits to certain providers for MediPass patients without prior authorization;

Senators Myers, Forman and Bankhead offered the following amendment which was moved by Senator Myers and adopted by two-thirds vote:

Amendment 3 (with title amendment)—On page 9, between lines 16 and 17, insert:

Section 3. Section 143 of chapter 95-418, Laws of Florida, is amended to read:

Section 143. Effective upon this act becoming a law and notwithstanding any provision of law to the contrary, the provisions of section 19 of chapter 93-214, Laws of Florida, and section 4 of chapter 94-206, Laws of Florida, shall not become effective on July 1, 1995, but shall take effect on July 1, 1997, except that paragraph (f) of subsection (1) and paragraph (h) of subsection (3) of section 408.036, Florida Statutes, as amended by section 19 of chapter 93-214, Laws of Florida, shall not take effect on July 1, 1997, but shall take effect 90 days after the adjournment sine die of the next regular session of the Legislature occurring after the legislative session in which the Legislature receives a report from the Director of Health Care Administration certifying that the federal Health Care Financing Administration has implemented a per-episode prospective pay system for Medicare-certified home health agencies; however, a certificate of need shall not be required for the establishment of a Medicare-certified home health agency by a facility certified under chapter 651, Florida Statutes, a retirement community as defined in s. 400.404(2)(e), Florida Statutes, or a residential facility that serves only retired military personnel, their dependents and the surviving dependents of deceased military personnel. Medicare-reimbursed home health services provided through such agency shall be offered exclusively to residents of the facility or retirement community or to residents of facilities or retirement communities owned, operated, or managed by the same corporate entity. Each visit made to deliver Medicare-reimbursable home health services to a home health patient who, at the time of service, is not a resident of the facility or retirement community shall be a deceptive and unfair trade practice and constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, line 19, after the semicolon (;) insert: amending s. 143 of ch. 95-418, Laws of Florida; exempting from certificate-of-need review the establishment of Medicare-certified home health agencies, contingent upon specified future actions;

On motion by Senator Brown-Waite, **CS for SB 508** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

SENATOR BURT PRESIDING

The Senate resumed consideration of—

SB 1648—A bill to be entitled An act relating to public television and radio; prohibiting a public television or radio station funded by the state from merging with or allowing the use of its facilities by a private non-profit institution of higher learning; providing an effective date.

—which was previously considered this day. Pending **Amendment 3** by Senator Rossin was withdrawn.

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

Amendment 4 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsection (3) is added to section 235.40, Florida Statutes, to read:

235.40 Radio and television facilities.—

(3) *In fiscal year 1997-1998, state funding associated with Public Broadcasting Grants and Aids, General Appropriations Act, for South Florida Telecommunications, Inc. (WXEL-TV/FM, Channel 42), may be used to establish participation by the State University System in the purchase of South Florida Telecommunications, Inc. (WXEL-TV/FM). It is not the intent of this language to interfere with any agreement approved by the State Board of Education between the State of Florida, South Florida Telecommunications, Inc., and Barry Telecommunications, Inc.*

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to public television and radio; providing for redirection of funds allocated for fiscal year 1997-1998 to South Florida Telecommunications, Inc.; providing an effective date.

On motion by Senator Rossin **SB 1648** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Bankhead	Cowin	Gutman	Kurth
Bronson	Crist	Hargrett	Latvala
Brown-Waite	Dantzler	Harris	Lee
Burt	Diaz-Balart	Holzendorf	McKay
Campbell	Dudley	Horne	Meadows
Casas	Dyer	Jenne	Myers
Childers	Forman	Jones	Ostalkiewicz
Clary	Grant	Klein	Rossin

Scott Sullivan Turner Williams
 Silver Thomas
 Nays—None
 Vote after roll call:

Yea—Madam President

HB 1925—A bill to be entitled An act relating to regulation of health care practitioners; creating part II of chapter 455, F.S., to provide regulatory provisions applicable to the Department of Health that are separate from those applicable to the Department of Business and Professional Regulation; creating ss. 455.401, 455.402, 455.403, 455.404, 455.405, 455.406, 455.407, 455.408, 455.409, 455.411, 455.412, 455.414, 455.415, 455.416, 455.417, 455.418, 455.419, 455.421, 455.422, 455.424, 455.427, 455.428, 455.429, 455.431, 455.432, 455.433, 455.436, 455.438, 455.439, 455.441, 455.442, 455.443, 455.444, 455.445, 455.446, 455.447, 455.448, 455.449, 455.451, 455.452, 455.453, 455.457, 455.458, 455.461, 455.465, 455.466, 455.467, 455.468, and 455.469, F.S., to conform; providing intent; providing for a procedure for updating boards on major public health policy; providing for appointment of a task force to develop uniform procedures to standardize the validation of health care practitioner credentials; providing requirements with respect to examinations, including requirements for national, contracted, and shared examinations and translations of examinations; restricting board meetings to those determined to be in the public interest; providing for appointment of nonboard members to board committees under certain circumstances; requiring applicants for initial licensure to submit a full set of fingerprints; providing additional grounds for disciplinary action relating to keeping legible records, payments on federally or state guaranteed educational loans or service-conditional scholarships, providing proper identification to patients, and reporting of disciplinary actions of another jurisdiction; revising provisions relating to ownership and control of patient records; transferring s. 455.247, F.S., to conform; transferring and amending ss. 455.2055, 455.2141, 455.2142, 455.2173, 455.222, 455.2224, 455.241, 455.2415, 455.2416, 455.244, 455.2455, and 455.2456, F.S., to conform; amending ss. 455.01, 455.017, 455.10, 455.203, 455.205, 455.207, 455.208, 455.209, 455.211, 455.213, 455.214, 455.217, 455.2175, 455.218, 455.219, 455.221, 455.2228, 455.225, 455.227, 455.2273, 455.2275, 455.228, 455.2285, 455.229, 455.232, 455.26, 455.261, and 455.273, F.S., to conform; transferring and amending s. 455.2205, F.S., relating to the Health Care Trust Fund, to conform; amending ss. 215.20, 391.208, 391.217, 400.5575, and 408.20, F.S.; correcting cross references, to conform; transferring and amending ss. 455.24, 455.242, 455.243, and 455.245, F.S., relating to veterinary medical practice, to conform; amending s. 455.25, F.S., relating to disclosure of financial interest; requiring physicians or other health care providers to disclose their financial interest in certain entities; eliminating entity disclosure of financial interest; repealing s. 455.220, F.S., relating to fees required by the boards to cover the costs of regulation, to conform; repealing s. 455.2226, F.S., relating to instruction on human immunodeficiency virus and acquired immune deficiency syndrome; creating part I of the remaining provisions of chapter 455, F.S., as amended, to conform; amending ss. 120.80, 212.08, 215.37, 240.215, 310.102, 337.162, 381.0039, 383.32, 395.0193, 395.0197, 395.3025, 400.491, 408.061, 408.704, 415.1055, 415.5055, 415.51, 440.13, 457.103, 458.307, 458.3115, 458.331, 458.343, 458.347, 459.004, 459.015, 459.019, 459.022, 460.404, 460.4061, 461.004, 461.013, 463.003, 463.016, 464.004, 465.004, 465.006, 466.004, 466.007, 466.018, 466.022, 466.028, 468.1135, 468.1145, 468.1185, 468.1295, 468.1665, 468.1755, 468.1756, 468.205, 468.219, 468.364, 468.365, 468.402, 468.4315, 468.453, 468.456, 468.4571, 468.506, 468.507, 468.513, 468.523, 468.526, 468.532, 468.535, 468.703, 468.707, 468.711, 468.719, 469.009, 470.003, 470.036, 471.008, 471.015, 471.033, 472.015, 473.3035, 473.308, 473.311, 473.323, 474.204, 474.214, 474.2145, 475.021, 475.181, 475.25, 475.624, 476.204, 477.029, 480.044, 481.2055, 481.213, 481.225, 481.2251, 481.306, 481.311, 481.325, 483.805, 483.807, 483.901, 484.014, 484.042, 484.056, 486.023, 486.115, 486.172, 489.129, 489.533, 490.004, 490.009, 490.015, 491.004, 491.009, 491.015, 492.103, 492.113, 627.668, 627.912, 636.039, 641.27, 641.55, 766.106, 766.305, 766.308, 766.314, and 937.031, F.S.; correcting cross references and terminology, to conform; amending ss. 20.43, 381.81, 400.211, 402.48, 457.102, 458.305, 459.003, 460.403, 461.003, 462.01, 463.002, 465.003, 466.003, 467.003, 468.1125, 468.1655, 468.352, 468.518, 468.701, 478.42, 480.033, 483.803, 484.002, 484.003, 484.041, 484.042, 484.051, 486.021, 490.003, and 491.003, F.S.; correcting cross references and definitions, to conform; providing an effective date.

—as amended April 29 was read the third time by title.

Senator Myers moved the following amendment to **Engrossed Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 1—On page 2, line 25, after the comma (,) insert: *but not including personnel, property, and unexpended balances of appropriations related to consumer complaints, investigative and prosecutorial services.*

Senator Brown-Waite moved the following amendment to **Engrossed Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 2—On page 200, lines 23-31, delete those lines and insert:

(4) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any insurer reporting hereunder or its agents or employees or the department or its employees for any action taken by them ~~under pursuant to~~ this section. *The department may impose a fine of \$250 per day per case, not to exceed \$1,000 per case, against an insurer that violates the requirements of this section. This subsection applies to claims accruing on or after October 1, 1997.*

Senator Gutman moved the following amendment to **Engrossed Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 3 (with title amendment)—On page 203, between lines 8 and 9, insert:

Section 132. Effective upon this act becoming a law, paragraphs (a) and (c) of subsection (1) of section 458.3115, Florida Statutes, 1996 Supplement, are amended to read:

458.3115 Restricted license; certain foreign-licensed physicians; United States Medical Licensing Examination (USMLE) or agency-developed examination; restrictions on practice; full licensure.—

(1)

(a) Notwithstanding any other provision of law, the agency shall provide procedures under which certain physicians who are or were foreign-licensed and have practiced medicine no less than 2 years may take the USMLE or an agency-developed examination to qualify for a restricted license to practice medicine in this state. The agency and board-developed examination shall test the same areas of medical knowledge as the Federation of State Medical Boards of the United States, Inc. (FLEX) previously administered by the Florida Board of Medicine to grant medical licensure in Florida. Said examination shall be in the same form and content and shall be administered in the same manner as the FLEX. *The agency-developed examination must be made available no later than September 1, 1998, to a physician who qualifies for licensure.* A person who is eligible to take and elects to take the agency and board-developed examination, who has previously passed part 1 or part 2 of the previously administered FLEX shall not be required to retake or pass the equivalent parts of the agency-developed examination, and may sit for the agency and board-developed examination five times within 5 years.

(c) A person shall be eligible to take such examination for restricted licensure if the person:

1. Has taken, upon approval by the board, and completed, in November 1990 or November 1992, one of the special preparatory medical update courses authorized by the board and the University of Miami Medical School and subsequently passed the final course examination; ~~or~~ upon approval by the board to take the course completed in 1990 or in 1992, has a certificate of successful completion of that course from the University of Miami or the Stanley H. Kaplan course; *or can document to the department that he or she was one of the persons who took and successfully completed the Stanley H. Kaplan course that was approved by the Board of Medicine and supervised by the University of Miami. At a minimum, the documentation must include class attendance records and the test score on the final course examination;*

2. Applies to the agency and submits an application fee that is nonrefundable and equivalent to the fee required for full licensure;

3. Documents no less than 2 years of the active practice of medicine in another jurisdiction;

4. Submits an examination fee that is nonrefundable and equivalent to the fee required for full licensure plus the actual per-applicant cost to the agency to provide either examination described in this section;

5. Has not committed any act or offense in this or any other jurisdiction that would constitute a substantial basis for disciplining a physician under this chapter or chapter 455; and

6. Is not under discipline, investigation, or prosecution in this or any other jurisdiction for an act that would constitute a violation of this chapter or chapter 455 and that substantially threatened or threatens the public health, safety, or welfare.

(Renumber subsequent section.)

And the title is amended as follows:

On page 211, line 19, after the semicolon (;) insert: amending s. 458.3115, F.S.; revising requirements for the development of examinations administered to certain foreign-licensed physicians; prescribing eligibility requirements for certain foreign-trained physicians to take a restricted-license examination;

Senator Campbell moved the following amendment to **Engrossed Senate Amendment 1**:

Amendment 4 (with title amendment)—On page 203, between lines 8 and 9, insert:

Section 132. Paragraph (t) of subsection (1) of section 458.331, Florida Statutes, 1996 Supplement, is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(t) Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. As used in this paragraph, "repeated malpractice" includes, but is not limited to, three or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of \$25,000 \$10,000 each to the claimant in a judgment or settlement and which incidents involved negligent conduct by the physician. As used in this paragraph, "gross malpractice" or "the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances," shall not be construed so as to require more than one instance, event, or act. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph.

(Renumber subsequent section.)

And the title is amended as follows:

On page 211, line 18, after the semicolon (;) insert: amending s. 458.331, F.S.; increasing malpractice indemnity limits for physicians;

On motion by Senator Myers, further consideration of **HB 1925** with pending **Amendment 4** was deferred.

SPECIAL ORDER CALENDAR, continued

On motion by Senator Grant, the Senate resumed consideration of—

HB 1545—A bill to be entitled An act relating to education; amending ss. 239.117, 240.235, and 240.35, F.S.; allowing children adopted from the Department of Children and Family Services to be exempt from certain student fees; amending s. 240.334, F.S.; conforming provisions; amending s. 240.36, F.S.; renaming the Florida Academic Improvement Trust Fund for Community Colleges; providing the community college system with the opportunity to receive and match challenge grants; specifying the State Board of Community Colleges as an eligible community college entity; providing for matching funds by any community college entity; requiring transfer of state matching funds to foundations; requiring each community college entity to establish its own academic

improvement trust fund for the deposit of funds; specifying the use of funds; deleting certain requirements restricting the use of money for specified scholarship purposes; creating s. 240.4041, F.S.; permitting part-time students with a disability to be eligible for state financial aid; amending s. 240.6045, F.S.; revising provisions relating to a limited access competitive grant program; amending s. 229.551, F.S.; including private postsecondary education institutions; providing an exception to the course leveling requirement; amending s. 240.107, F.S., and reenacting s. 239.213(3), F.S., relating to vocational-preparatory instruction, to incorporate said amendment in a reference; deleting an alternative to the College Level Academic Skills Test; deleting a testing requirement; amending s. 240.116, F.S., relating to dual enrollment; providing an exception to grade point average requirements under certain circumstances; amending s. 240.117, F.S.; revising provisions relating to common placement testing for dual enrollment students; amending s. 240.1163, F.S.; providing limitations for calculating dual enrollment grades; authorizing the approval of dual enrollment agreements for limited course offerings with statewide appeal; creating s. 240.65, F.S.; providing a short title; providing legislative intent; creating the Institute on Public Postsecondary Distance Learning; providing for a governing board of the institute; assigning the institute to the Florida Gulf Coast University for purposes of administration; specifying duties of the institute; providing review and approval by Florida Distance Learning Network; repealing s. 240.65, F.S., after a date certain; creating s. 240.66, F.S.; directing the State Board of Community Colleges to establish the Florida Community College Distance Learning Consortium; providing for consortium membership; providing duties of the consortium; providing review and approval by Florida Distance Learning Network; amending s. 120.542, F.S.; providing that public employees are not persons subject to regulation for the purposes of waiver and variance; amending s. 120.81, F.S.; providing for exceptions to notice requirements and filing requirements; providing for retroactive effect; amending s. 231.17, F.S.; providing specific authority to adopt rules related to the educational certification of speech pathologists; amending ss. 228.041, 231.1725, 232.246, 233.067 and 236.081, F.S.; renaming home economics courses as family and consumer sciences courses; amending s. 239.105, F.S.; revising definitions of the terms "adult secondary education," "basic literacy," and "functional literacy"; defining the terms "beginning literacy" and "family literacy"; amending s. 239.205, F.S.; deleting a rulemaking requirement regarding career education programs; amending s. 239.213, F.S.; revising provisions relating to standards of basic skills mastery; providing for the use of adult basic education to meet certain needs; amending s. 239.229, F.S.; requiring the identification of vocational standards related to work experience; requiring the development of additional program standards and benchmarks; amending s. 239.301, F.S., relating to adult general education; conforming language to revised definitions; amending s. 239.305, F.S., relating to adult literacy; conforming language to revised definitions; removing a State Board of Education rule requirement; removing specific annual reporting requirements; providing for status reports in lieu of annual reports; deleting a requirement for the submission of a plan to the Commissioner of Education; amending s. 240.313, F.S.; providing for an odd number of members on the Florida Community College at Jacksonville Board of Trustees; amending s. 240.319, F.S., relating to duties and powers of community college district boards of trustees; providing for specific authority; repealing ss. 240.3575(5), 240.3815(1), and 240.382(5), F.S., relating to annual reports of economic development centers, annual reports of community college campus crime statistics, and rules for the operation of child development training centers; amending s. 229.595, F.S.; requiring the inclusion of student postsecondary preparedness information in manuals and handbooks; amending s. 229.601, F.S.; providing for recommended high school coursework information; creating s. 232.2466, F.S.; providing requirements for a college-ready diploma program; requiring a task force to recommend incentives for pursuit of a college-ready diploma; amending s. 239.117, F.S.; requiring the payment of fees for the continuous enrollment of students in college-preparatory instruction; providing an exception; amending s. 239.301, F.S.; deleting conflicting language; requiring the payment of fees for the continuous enrollment of students in college-preparatory instruction; providing an exception; amending s. 240.1161, F.S.; requiring implementation strategies for reducing the incidence of postsecondary remediation; requiring an assessment of activities and the presentation of outcomes; providing for the promotion of "tech prep" activities; amending s. 240.117, F.S.; requiring the administration of the common placement test or an equivalent test during the tenth grade; requiring the administration of an institutionally developed test in lieu of the common placement test as an exit exam from remedial instruction; clarifying language regarding the offering of

college-preparatory instruction; requiring payment of fees for the continuous enrollment of students in college-preparatory instruction; providing an exception; creating s. 240.124, F.S.; providing for an increase in fees for undergraduate students who continually enroll in the same college credit courses; providing for exceptions; amending s. 240.321, F.S.; applying entrance requirements to all degree programs; permitting a demonstration of competency as an alternative degree program admission requirement; providing an exemption from the testing requirement under certain circumstances; requiring the establishment of institutional policies regarding alternatives to traditional college-preparatory instructional methods; amending s. 239.117, F.S., relating to postsecondary student fees; allowing payment for the cost of fee exemptions to be made through a contract with the local WAGES coalition; amending s. 239.249, F.S.; providing an appeal process for school districts and community colleges to allow exemption from participation in performance-based incentive funding; amending s. 239.301, F.S.; providing for services for WAGES clients negotiated through the jobs and education regional board by school districts and community colleges to be funded by the local WAGES coalition; amending s. 240.35, F.S., relating to student fees; allowing payment for the cost of fee exemptions to be made through a contract with the local WAGES Coalition; amending s. 414.065, F.S., relating to work requirements for participation in the WAGES Program; including paid apprenticeship activities, the work component of cooperative education activities, and work-study activities in work activities; permitting educational institutions to provide training and receive subsidies to offset the cost of the training; providing reasons for placement in community service; defining work experience; clarifying the role of remedial or basic skills training; revising requirements for payment to a provider of vocational education or training; requiring the development of programs to address the needs of "hard-to-place" recipients; expanding the definition of job skills training; providing additional literacy or basic skills requirements related to work activity requirements; requiring the establishment of a task force to investigate issues associated with job training and workforce development; providing effective dates.

—with pending **Amendment 1** and **Amendment 1D** by Senator Grant.

The question recurred on **Amendment 1D**.

Senator Grant moved the following substitute amendment for **Amendment 1D** which was adopted:

Amendment 1E (with title amendment)—On page 22, between lines 8 and 9, insert:

Section 16. Paragraph (a) of subsection (22) of section 228.041, Florida Statutes, 1996 Supplement, is amended to read:

228.041 Definitions.—Specific definitions shall be as follows, and wherever such defined words or terms are used in the Florida School Code, they shall be used as follows:

(22) CAREER EDUCATION.—

(a) "Career education" is defined as meaning that instruction not necessarily leading to a baccalaureate degree, either graded or ungraded, listed below:

1. Job-preparatory instruction in the minimum competencies necessary for effective entry into an occupation, including diversified cooperative education, work experience, and job entry programs which coordinate directed study and on-the-job training;
2. Exploratory courses designed to give students initial exposure to the skills and aptitudes associated with a broad range of occupations in order to assist them in making informed decisions regarding their future academic and occupational goals;
3. Supplemental programs designed to enable persons who are or have been employed in an occupation to upgrade their competencies in order to reenter or maintain employment or advance within their current occupation;
4. Practical arts courses designed to teach students practical generic skills which, though applicable to some occupations, are not designed to prepare students for entry into a specific occupation. Such courses may include, but may not be limited to, typing, industrial arts, and *family and consumer sciences home-economics*; or

5. Instruction which integrates the basic academic skills and vocational skills.

Section 17. Paragraph (c) of subsection (1) of section 231.1725, Florida Statutes, is amended to read:

231.1725 Employment of substitute teachers, teachers of adult education, nondegreed teachers of career education, and noncertificated teachers in critical teacher shortage areas.—

(1) Notwithstanding the provisions of ss. 231.02, 231.15, 231.17, and 231.172 or any other provision of law or rule to the contrary, each school board shall establish the minimal qualifications for:

(c) Part-time and full-time nondegreed teachers of vocational programs. Qualifications shall be established for agriculture, business, health occupations, *family and consumer sciences home-economics*, industrial, marketing, and public service education teachers, based primarily on successful occupational experience rather than academic training. The qualifications for such teachers shall require:

1. The filing of a complete set of fingerprints in the same manner as required by s. 231.02. Faculty employed solely to conduct postsecondary instruction may be exempted from this requirement.

2. Documentation of education and successful occupational experience including documentation of:

a. A high school diploma or the equivalent.

b. Completion of 6 years of full-time successful occupational experience or the equivalent of part-time experience in the teaching specialization area. Alternate means of determining successful occupational experience may be established by the school board.

c. Completion of career education training conducted through the local school district inservice master plan.

d. For full-time teachers, completion of professional education training in teaching methods, course construction, lesson planning and evaluation, and teaching special needs students. This training may be completed through coursework from a standard institution or an approved district teacher education program.

e. Demonstration of successful teaching performance.

Section 18. Paragraph (c) of subsection (7) of section 232.246, Florida Statutes, is amended to read:

232.246 General requirements for high school graduation.—

(7) No student may be granted credit toward high school graduation for enrollment in the following courses or programs:

(c) More than three credits in practical arts *family and consumer sciences home-economics* classes as defined in s. 228.041(22)(a)4.

Section 19. Paragraph (c) of subsection (4) of section 233.067, Florida Statutes, 1996 Supplement, is amended to read:

233.067 Comprehensive health education and substance abuse prevention.—

(4) ADMINISTRATION OF THE COMPREHENSIVE HEALTH EDUCATION AND SUBSTANCE ABUSE PREVENTION PROGRAM.—

(c) The comprehensive health education and substance abuse prevention program shall include the following in all public and laboratory schools:

1. Implementation of inservice education programs for teachers, counselors, and other persons, which programs deal with comprehensive health education, substance abuse prevention, prevention of sexually transmissible diseases, especially human immunodeficiency virus infection and acquired immune deficiency syndrome, and the benefits of sexual abstinence and consequences of teenage pregnancy. Such inservice education programs shall be consistent with the master plan, as specified in s. 236.0811, and shall include training in substance abuse identification and prevention. The training plan may provide for the

option of using teachers as trainers and shall include, but not be limited to: information on current theory, knowledge, and practice regarding substance abuse; identification and referral procedures; legal issues; peer counseling; and methods of teaching decisionmaking skills and building self-concept. Inservice teacher education materials and student materials which are based upon individual performance and designed for use with a minimum of supervision shall be developed and made available to all school districts and laboratory schools.

2. Implementation of management training programs consistent with the provisions of s. 231.087 for principals and other school leaders on the identification, prevention, and treatment of substance abuse and the availability of local and regional referral resources.

3. Instruction in nutrition education as a specific area of health education instruction. Nutrition education shall include, but not be limited to, sound nutritional practices, wise food selection, analysis of advertising claims about food, proper food preparation, and food storage procedures. The purpose of such nutrition education programs shall be to educate students in the overall area of nutrition education and significantly reduce health problems associated with poor or improper nutrition practices.

4. Instruction in substance abuse prevention in kindergarten through grade 12. Such instruction shall be designed to meet local needs and priorities and shall articulate clear instructional objectives aimed at the prevention of alcohol and substance abuse. The instruction shall be appropriate for the grade and age of the student and shall reflect current theory, knowledge, and practice regarding prevention of substance abuse and may contain instruction in such components as health, personal, and economic consequences of substance abuse and instruction in decisionmaking, resisting peer pressure, self-concept building skills, and identifying and dealing with situations that pose a risk to one's health and may lead to substance abuse.

5. Instruction in the causes, transmission, and prevention of human immunodeficiency virus infection and acquired immune deficiency syndrome and other sexually transmissible diseases for students. Such instruction shall be included in appropriate middle school or junior high school health and science courses and in life management skills and other high school courses. Any student whose parent makes written request to the school principal shall be exempt from reproductive health or AIDS instructional activities, as requested. Curriculum frameworks for comprehensive health education shall not interfere with the local determination of appropriate curriculum which reflects local values and concerns.

6. Upon approval by the district school board, an opportunity for 9th-12th grade students to receive instruction in cardiopulmonary resuscitation in order to become certified in that technique. A school district may enter a cooperative arrangement with a local government or nonprofit association to provide training in cardiopulmonary resuscitation through instructors certified in that technique.

7. Design and development of programs for the selection and training of health education instructors from existing teaching staff and the orientation to teaching roles for persons employed in appropriate health fields and community volunteers.

8. Development of training programs to allow the use of school food service personnel as resource persons.

9. Instruction in reproductive health, interpersonal skills, and parenting to reduce teenage pregnancy and to promote healthy behavior in Florida's children for all students in kindergarten through grade 12, beginning with the 1991-1992 school year. In order that children make informed and constructive decisions about their lives, complete and accurate comprehensive health education shall be made available to all young people. Curriculum shall be developed to reduce destructive behavior in children, including early sexual involvement, substance abuse, suicide, and activities which result in sexually transmitted diseases, acquired immune deficiency syndrome, and early teenage pregnancy, with subject materials appropriate to the grade level and values consistent with those of the community. Instruction shall also include an understanding of the body and its systems and identification and prevention of child abuse in the lower grades and decisionmaking in the middle and higher grades. Instruction in human sexuality shall take into account the whole person, shall present ethical and moral dimensions, shall not be an expression of any one sectarian or secular philosophy, and shall

respect the conscience and rights of students and parents. School districts and laboratory schools are encouraged to provide written materials on reproductive health to parents, as well as opportunities for parents to become informed about the instruction their children are receiving and to receive instruction themselves. All course materials and oral or visual instruction shall conform to the requisites and intent of all Florida law and the State Constitution. All instructional materials, including teachers' manuals, films, tapes, or other supplementary instructional material shall be available for inspection by parents or guardians of the children engaged in such classes.

10. Instruction in the benefits of sexual abstinence and consequences of teenage pregnancy, sexually transmitted diseases, and acquired immune deficiency syndrome in appropriate middle school or junior high school health, science, and *family and consumer sciences* ~~home economics~~ courses and in life management skills and other appropriate high school courses. Curriculum frameworks shall be created or modified as necessary to help ensure such instruction.

Section 20. Paragraph (l) of subsection (1) of section 236.081, Florida Statutes, 1996 Supplement, is amended 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:

(l) Instruction in *family and consumer sciences* ~~home economics~~.—Students in grades K through 12 who are enrolled for more than six semesters in practical arts *family and consumer sciences* ~~home economics~~ courses as defined in s. 228.041(22)(a)4. may not be counted as full-time equivalent students for this instruction.

Section 21. Subsections (3) through (10) of section 239.105, Florida Statutes, are amended to read:

239.105 Definitions.—As used in this chapter, the term:

(3) "Adult secondary education" means courses through which a person receives high school credit that leads to the award of a high school diploma or programs of instruction through which a student prepares to take the general educational development test. *This includes grade levels 9.0 through 12.9.*

(4) "Basic literacy" *which is also referred to as "beginning adult basic education"* means the demonstration of academic competence *from 2.0 through 5.9 at a fifth-grade educational grade levels level* as measured by means approved for this purpose by the State Board of Education.

(5) "Beginning literacy" means the demonstration of academic competence from 0 through 1.9 educational grade levels as measured by means approved for this purpose by the State Board of Education.

(6)(5) "College-preparatory instruction" means courses through which a high school graduate who applies for a degree program may attain the communication and computation skills necessary to enroll in college credit instruction.

(7)(6) "Commissioner" means the Commissioner of Education.

(8)(7) "Community education" means the use of a school or other public facility as a community center operated in conjunction with other public, private, and governmental organizations for the purpose of providing educational, recreational, social, cultural, health, and community services for persons in the community in accordance with the needs, interests, and concerns of that community.

(9)(8) "Department" means the Department of Education.

(10)(9) "Document literacy" means the demonstration of competence in identifying and using information located in materials such as charts, forms, tables, and indexes.

(11) "Family literacy" means a program for adults with a literacy component for parents and children or other intergenerational literacy components.

(12)(10) "Functional literacy" which is also referred to as "intermediate adult basic education" means the demonstration of academic competence from 6.0 through 8.9 at an eighth-grade educational grade levels level as measured by means approved for this purpose by the State Board of Education.

Section 22. Section 239.205, Florida Statutes, is amended to read:

239.205 State Board of Education rules regarding career education programs; common definitions; criteria for determining program level; basic skills standards.—

(1) The State Board of Education shall adopt, by rule, common definitions for associate in science degrees and for certificates.

(2) The State Board of Education shall develop guidelines to determine the criteria by which the level of degree or certificate is assigned to a vocational program. The guidelines must ensure that assignments are made at the lowest level possible commensurate with sound professional practice; however, the guidelines must also ensure that assignments are updated for programs that increase in technical complexity or general education requirements beyond the parameters of a certificate program. Institutions may continue to offer existing programs that are assigned to a lower level; however, such programs shall be funded at the assigned level. The State Board of Education shall adopt rules regarding reporting requirements for vocational programs.

~~(3) The State Board of Education shall adopt, by rule, basic skills standards to be met by each vocational student prior to completion of a certificate career education program.~~

Section 23. Subsections (1) and (2) of section 239.213, Florida Statutes, are amended to read:

239.213 Vocational-preparatory instruction.—

(1) The State Board for Career Education shall adopt, by rule, standards of basic skill mastery for certificate career education programs of less than 1,800 hours. Each school district and community college that conducts certificate career education programs shall provide vocational-preparatory instruction through which students receive the basic skills instruction required pursuant to this section.

(2) Students who enroll in a certificate career education program of 450 hours or more shall complete an entry-level examination within the first 6 weeks of admission into the program. The state board shall designate examinations that are currently in existence, the results of which are comparable across institutions, to assess student mastery of basic skills. Any student deemed to lack a minimal level of basic skills for such program shall be referred to vocational-preparatory instruction or adult basic education for a structured program of basic skills instruction. Such instruction may include English for speakers of other languages. A student may not receive a certificate of vocational program completion prior to demonstrating the basic skills required in the state curriculum frameworks for the vocational program.

Section 24. Paragraphs (b) and (d) of subsection (2) of section 239.229, Florida Statutes, are amended to read:

239.229 Vocational standards.—

(2)

(b) School board, superintendent, and area technical center, and community college board of trustees and president, accountability for certificate career education programs includes, but is not limited to:

1. Student demonstration of the academic skills necessary to enter an occupation.
2. Student preparation to enter an occupation in an entry-level position or continue postsecondary study.
3. Vocational program articulation with other corresponding postsecondary programs and job training experiences.
4. Employer satisfaction with the performance of vocational program completers.

5. Student completion and placement rates as defined in s. 239.233.

(d) Department of Education accountability for career education includes, but is not limited to:

1. The provision of timely, accurate technical assistance to school districts and community colleges.
2. The provision of timely, accurate information to the State Board for Career Education, the Legislature, and the public.
3. The development of policies, rules, and procedures that facilitate institutional attainment of the accountability standards and coordinate the efforts of all divisions within the department.

4. *The development of program standards and industry-driven benchmarks for vocational, adult, and community education programs.*

5.4. Overseeing school district and community college compliance with the provisions of this chapter.

Section 25. Section 239.305, Florida Statutes, is amended to read:

239.305 Adult literacy.—

(1)(a) An adult, individualized literacy instruction program is created for adults who ~~do not~~ possess basic literacy skills below the ninth grade level. The purpose of the program is to provide self-paced, competency-based, individualized tutorial instruction. The commissioner shall administer this section in coordination with the State Board of Community Colleges, local school boards, and the Division of Library and Information Services of the Department of State pursuant to State Board of Education rule.

(b) Local adult, individualized literacy instruction programs may be coordinated with local public library systems and with public or private nonprofit agencies, organizations, or institutions. A local public library system and a public or private nonprofit agency, organization, or institution may use funds appropriated for the purposes of this section to hire program coordinators. Such coordinators shall offer training activities to volunteer tutors and oversee the operation of local literacy programs. A local public library system and a public or private nonprofit agency, organization, or institution may also purchase student instructional materials and modules that instruct tutors in the teaching of basic and functional literacy and English for speakers of other languages. To the extent funds are appropriated, cooperating local library systems shall purchase, and make available for loan, reading materials of high interest and with a vocabulary appropriate for use by students who possess literacy skills below the ninth grade level in basic and functional literacy instruction and students of English for speakers of other languages.

(2)(a) The adult literacy program is intended to ~~increase~~ reduce adult literacy illiteracy as prescribed in the agency functional plan of the Department of Education. The commissioner shall establish guidelines for the purpose of determining achievement of this goal.

(b) Each participating local sponsor shall submit an annual report to the commissioner which must contain, ~~but need not be limited to, the following information to demonstrate the extent to which there has been:~~

1. ~~The number of clients served.~~

2. ~~The progress toward increasing the percentage of adults within the service area who possess literacy skills. As evidence of such progress, the report must include information regarding the number of students enrolled in adult basic education programs and the number of students who completed, separated from, or continued in the programs.~~

(c) ~~Based on the information provided from the local reports, the commissioner shall develop an annual status report on literacy and adult education. The commissioner shall review the annual reports of local sponsors and submit to the State Board of Education a county-by-county summary of the information.~~

(3) Funds appropriated for the purposes of this section shall be allocated as grants for implementing adult literacy programs. Such funds may not be used to supplant funds used for activities that would otherwise be conducted in the absence of literacy funding. A grant awarded pursuant to this section may not exceed \$50,000. Priority for the use of

such funds shall be given to paying expenses related to the instruction of volunteer tutors, including materials and the salary of the program coordinator. Local sponsors may also accept funds from private sources for the purposes of this section.

(4)(a) The commissioner shall submit a state adult literacy plan to the State Board of Education to serve as a reference for school boards and community colleges to ~~increase reduce~~ adult literacy illiteracy in their service areas as prescribed in the agency functional plan of the Department of Education. The plan must include, at a minimum:

1. Policies and objectives for adult literacy programs, including evaluative criteria.
2. Strategies for coordinating adult literacy activities with programs and services provided by other state and local nonprofit agencies, as well as strategies for maximizing other funding, resources, and expertise.
3. Procedures for identifying, recruiting, and retaining adults who ~~possess lack basic and functional~~ literacy skills *below the ninth grade level*.
4. Sources of relevant demographic information and methods of projecting the number of adults who ~~do not possess basic or functional~~ literacy skills *below the ninth grade level*.
5. Acceptable methods of demonstrating compliance with the provisions of this section.
6. Guidelines for the development and implementation of local adult literacy plans. At a minimum, such guidelines must address:
 - a. The recruitment and preparation of volunteer tutors.
 - b. Interagency and intraagency cooperation and coordination, especially with public libraries and other sponsors of literacy programs.
 - c. Desirable learning environments, including class size.
 - d. Program evaluation standards.
 - e. Methods for identifying, recruiting, and retaining adults in literacy programs.
 - f. ~~Prevention of Adult literacy illiteracy through family literacy and workforce literacy parenting education~~ programs.

(b) Every 3 years, the school board or community college board of trustees shall ~~develop and maintain submit~~ a local adult literacy plan to the commissioner for review and subsequent approval or disapproval. ~~The commissioner shall notify the superintendent of schools or the president of the community college, as applicable, of the approval or disapproval of the plan. If the plan is not brought into compliance by the school district or community college within 60 days after receiving notice of disapproval by the commissioner, the school district or community college may not receive any funds from appropriations for the purposes of this section for the subsequent fiscal year.~~

Section 26. *Subsection (5) of section 240.3575 and subsection (1) of section 240.3815, Florida Statutes, and subsection (5) of section 240.382, Florida Statutes, as created by chapter 94-220, Laws of Florida, are repealed.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 24, line 7, after the semicolon (;) insert: amending ss. 228.041, 231.1725, 232.246, 233.067 and 236.081, F.S.; renaming home economics courses as family and consumer sciences courses; amending s. 239.105, F.S.; revising definitions of the terms "adult secondary education," "basic literacy," and "functional literacy"; defining the terms "beginning literacy" and "family literacy"; amending s. 239.205, F.S.; deleting a rulemaking requirement regarding career education programs; amending s. 239.213, F.S.; revising provisions relating to standards of basic skills mastery; providing for the use of adult basic education to meet certain needs; amending s. 239.229, F.S.; requiring the identification of vocational standards related to work experience; requiring the development of additional program standards and benchmarks; amending s. 239.305, F.S., relating to adult literacy; conforming provisions to

revised definitions; removing a State Board of Education rule requirement; removing specific annual reporting requirements; providing for status reports in lieu of annual reports; deleting a requirement for the submission of a plan to the Commissioner of Education; repealing ss. 240.3575(5), 240.3815(1), 240.382(5), F.S., relating to annual reports of economic development centers, annual reports of community college campus crime statistics, and rules for the operation of child development training centers;

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

Amendment 1F (with title amendment)—On page 22, between lines 8 and 9, insert:

Section 16. Section 240.6045, Florida Statutes, is amended 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 ~~is shall be~~ to provide enrollment opportunities for qualified applicants ~~in 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 ~~that are designated; commonly referred to~~ as limited access programs, ~~that which~~ require a baccalaureate degree, and for which one or more state universities have insufficient capacity to serve all qualified applicants.

(3) Program applicants ~~must shall~~ be Florida residents, either community college graduates or state university students, who ~~are qualified for admission to a selected independent college or university 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.

(Renumber subsequent section.)

And the title is amended as follows:

On page 24, line 7, after the semicolon (;) insert: amending s. 240.6045, F.S.; amending requirements for qualifying;

Senator Kirkpatrick offered the following amendments to **Amendment 1** which were moved by Senator Grant and adopted:

Amendment 1G (with title amendment)—On page 22, between lines 8 and 9, insert:

Section 16. Paragraph (a) of subsection (2) of section 240.116, Florida Statutes, 1996 Supplement, as amended by Committee Substitute for Senate Bill 458, 1997 Regular Session, is amended to read:

240.116 Articulated acceleration.—

(2)(a)1. The dual enrollment program is the enrollment of an eligible secondary student in a postsecondary course creditable toward a vocational certificate or an associate or baccalaureate degree. For the purpose of this subparagraph, an eligible secondary student is a student who is enrolled in a Florida public secondary school or in a Florida nonpublic secondary school which is in compliance with s. 229.808 and conducts a secondary curriculum pursuant to s. 232.246. Students enrolled in postsecondary instruction that is not creditable toward the high school diploma *shall may* not be classified as dual enrollments. Students who are permitted to enroll in dual enrollment courses may take courses conducted during school hours, after school hours, and during the summer term. Any student so enrolled is exempt from the payment of registration, matriculation, and laboratory fees. With the exception of vocational-preparatory instruction, college-preparatory instruction and other forms of precollegiate instruction, as well as physical education courses that focus on the physical execution of a skill rather than the intellectual attributes of the activity, are ineligible for inclusion in the dual enrollment program. Recreation and leisure studies courses shall be evaluated individually in the same manner as physical education courses for potential inclusion in the program.

2. The Department of Education shall adopt guidelines designed to achieve comparability across school districts of both student qualifications and teacher qualifications for dual enrollment courses. Student qualifications must demonstrate readiness for college-level coursework if the student is to be enrolled in college courses. Student qualifications must demonstrate readiness for vocational-level coursework if the student is to be enrolled in vocational courses. In addition to the common placement examination, student qualifications for college credit dual enrollment courses must include a 3.0 unweighted grade point average, and student qualifications for vocational certificate dual enrollment courses must include a 2.0 unweighted grade point average. *Exceptions to the required grade point averages may be granted if the educational entities agree and the terms of the agreement are contained within the dual enrollment interinstitutional articulation agreement.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 24, line 7, after the semicolon (;) insert: amending s. 240.116, F.S.; authorizing exceptions to grades required for participation in articulated acceleration;

Amendment 1H (with title amendment)—On page 22, between lines 8 and 9, insert:

Section 16. Section 240.4041, Florida Statutes, is created to read:

240.4041 State financial aid; students with a disability.—Notwithstanding the provisions of s. 240.404(1)(b)1.b. regarding the number of credits earned per term, or other financial aid eligibility requirements related to the number of required credits earned per term, a student with a documented disability, as defined by the Americans with Disabilities Act, shall be eligible to be considered for state financial aid while attending an eligible postsecondary institution on a part-time basis. The State Board of Education shall establish the necessary criteria for documentation of the student's disability and the postsecondary institution shall make the determination as to whether or not the disability is such that part-time status is a necessary accommodation. For the purposes of this section, financial aid funds may be pro-rated based on the number of credit hours taken.

(Renumber subsequent section.)

And the title is amended as follows:

On page 24, line 7, after the semicolon (;) insert: creating s. 240.4041, F.S.; permitting part-time attendance for students with a disability who receive financial assistance;

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

Amendment 1I (with title amendment)—On page 22, between lines 8 and 9, insert:

Section 16. Paragraph (e) of subsection (2) of section 239.117, Florida Statutes, is amended to read:

239.117 Postsecondary student fees.—

(2) The following students are exempt from any requirement for the payment of registration, matriculation, and laboratory fees for instruction:

(e) A student for whom the state is paying a foster care board payment pursuant to s. 409.145(3) or pursuant to parts III and V of chapter 39 for whom the permanency planning goal pursuant to part V of chapter 39 is long-term foster care or independent living, *whether or not subsequently adopted. For an adopted child, this exemption will be available beginning no more than 4 years after the date on which the adopted child graduated from high school.* Such exemption includes fees associated with enrollment in college-preparatory instruction and completion of the college-level communication and computation skills testing program.

Section 17. Paragraph (a) of subsection (5) of section 240.235, Florida Statutes, is amended to read:

240.235 Fees.—

(5)(a) Any student for whom the state is paying a foster care board payment pursuant to s. 409.145(3) or parts III and V of chapter 39, for whom the permanency planning goal pursuant to part V of chapter 39 is long-term foster care or independent living, *whether or not subsequently adopted, is shall* be exempt from the payment of all undergraduate fees, including fees associated with enrollment in college-preparatory instruction or completion of college-level communication and computation skills testing programs. *For an adopted child, this exemption will be available beginning no more than 4 years after the date on which the adopted child graduated from high school.* Before a fee exemption can be given, the student shall have applied for and been denied financial aid, pursuant to s. 240.404, which would have provided, at a minimum, payment of all undergraduate fees.

Section 18. Paragraph (a) of subsection (2) of section 240.35, Florida Statutes, 1996 Supplement, is amended to read:

240.35 Student fees.—Unless otherwise provided, the provisions of this section apply only to fees charged for college credit instruction.

(2)(a) Any student for whom the state is paying a foster care board payment pursuant to s. 409.145(3) or parts III and V of chapter 39, for whom the permanency planning goal pursuant to part V of chapter 39 is long-term foster care or independent living, *whether or not subsequently adopted, is* exempt from the payment of all undergraduate fees, including fees associated with enrollment in college-preparatory instruction or completion of the college-level communication and computation skills testing program. *For an adopted child, this exemption will be available beginning no more than 4 years after the date on which the adopted child graduated from high school.* Before a fee exemption can be given, the student shall have applied for and been denied financial aid, pursuant to s. 240.404, which would have provided, at a minimum, payment of all student fees.

And the title is amended as follows:

On page 24, line 7, after the semicolon (;) insert: amending ss. 239.117, 240.235, 240.35, F.S.; exempting children adopted from the Department of Children and Family Services from certain postsecondary student fees;

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

Amendment 1J (with title amendment)—On page 22, between lines 8 and 9, insert:

Section 16. Effective June 1, 1999, paragraph (b) of subsection (1) of section 232.01, Florida Statutes, is amended to read:

232.01 Regular school attendance required between ages of 6 and 16; permitted at age of 5; exceptions.—

(1)

(b) Any child who has attained the age of 6 years on or before ~~August 1 September 1~~ of the school year and who has been enrolled in a public school or who has attained the age of 6 years on or before ~~August 1 September 1~~ and has satisfactorily completed the requirements for kindergarten in a nonpublic school from which the district school board accepts transfer of academic credit, or who otherwise meets the criteria for admission or transfer in a manner similar to that applicable to other grades, shall progress according to the district's pupil progression plan. However, nothing in this section shall authorize the state or any school district to oversee or exercise control over the curricula or academic programs of nonpublic schools.

Section 17. Effective June 1, 2000, paragraph (b) of subsection (1) of section 232.01, Florida Statutes, as amended by section 1 of this act, is amended to read:

232.01 Regular school attendance required between ages of 6 and 16; permitted at age of 5; exceptions.—

(1)

(b) Any child who has attained the age of 6 years on or before ~~July 1 August 1~~ of the school year and who has been enrolled in a public school or who has attained the age of 6 years on or before ~~July 1 August 1~~ and has satisfactorily completed the requirements for kindergarten in a nonpublic school from which the district school board accepts transfer of academic credit, or who otherwise meets the criteria for admission or transfer in a manner similar to that applicable to other grades, shall progress according to the district's pupil progression plan. However, nothing in this section shall authorize the state or any school district to oversee or exercise control over the curricula or academic programs of nonpublic schools.

Section 18. Effective June 1, 2001, paragraph (b) of subsection (1) of section 232.01, Florida Statutes, as amended by section 2 of this act, is amended to read:

232.01 Regular school attendance required between ages of 6 and 16; permitted at age of 5; exceptions.—

(1)

(b) Any child who has attained the age of 6 years on or before ~~June 1 July 1~~ of the school year and who has been enrolled in a public school or who has attained the age of 6 years on or before ~~June 1 July 1~~ and has satisfactorily completed the requirements for kindergarten in a nonpublic school from which the district school board accepts transfer of academic credit, or who otherwise meets the criteria for admission or transfer in a manner similar to that applicable to other grades, shall progress according to the district's pupil progression plan. However, nothing in this section shall authorize the state or any school district to oversee or exercise control over the curricula or academic programs of nonpublic schools.

Section 19. Section 232.04, Florida Statutes, is amended to read:

232.04 In kindergartens.—~~For the 1983-1984 school year and thereafter,~~ Children who will have attained the age of 5 years on or before ~~the date prescribed in this section during September 1~~ of the school year shall be eligible for admission to public kindergartens during that school year under rules prescribed by the school board. *For the school year 1998, the child must have attained the age of 5 years on or before August 1, 1998. For the school year 1999, the child must have attained the age of 5 years on or before July 1, 1999. For the school year 2000 and thereafter, the child must have attained the age of 5 years on or before June 1 of the school year.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 24, line 7, after the semicolon (;) insert: amending s. 232.01, F.S.; revising the age at which students must begin school; amending s. 232.04, F.S.; revising the age at which students must begin kindergarten;

Senator Jenne moved the following amendment to **Amendment 1** which failed:

Amendment 1K (with title amendment)—On page 22, between lines 8 and 9, insert:

Section 16. Paragraph (c) is added to subsection (1) of section 246.081, Florida Statutes, to read:

246.081 License, certificate of exemption, or authorization required; exceptions.—

(1) The following colleges are not under the jurisdiction of the board and do not need a license, a certificate of exemption, or an authorization to operate:

(c) *Any college accredited by the Commission on Colleges of the Southern Association of Colleges and Schools which is nonprofit and located in and chartered by the state, and which offers baccalaureate degrees. Such colleges will annually submit to the Commissioner of Education documentation of its accreditation status by the Southern Association of Colleges and Schools. The State Board of Education shall adopt rules relating to reporting requirements, but only for the purposes of compliance with federal rules and regulations.*

Section 17. Paragraph (a) of subsection (1) of section 246.085, Florida Statutes, 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;~~

~~1.2. The Accrediting Council for Independent Colleges and Schools at the junior or senior college of business level;~~

~~2.3. The American Association of Bible Colleges;~~

~~3.4. The Transnational Association of Christian Colleges and Schools; or~~

~~4.5. An agency recognized by the Commission on Recognition of Post-secondary 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:

On page 24, line 7, after the semicolon (;) insert: amending ss. 246.081, 246.085, F.S.; providing that certain independent colleges are not under the jurisdiction of the State Board of Independent Colleges and Universities;

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

Amendment 1L (with title amendment)—On page 22, between lines 8 and 9, insert:

Section 16. Paragraph (n) of subsection (1) of section 236.081, Florida Statutes, 1996 Supplement, is amended 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:

(n) Calculation of additional full-time equivalent membership based on international baccalaureate examination scores of students.—A value of 0.24 full-time equivalent student membership shall be calculated for each student enrolled in an international baccalaureate course who receives a score of 4 or higher on a subject examination. A value of 0.3 full-time equivalent student membership shall be calculated for each student who receives an international baccalaureate diploma. Such value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. *During the 1997-1998, 1998-1999, and 1999-2000 school years of the pilot program authorized in s. 240.116, students enrolled in the Advanced International Certificate of Education Program shall generate full-time equivalent student membership in a manner that is equitable to the manner in which students enrolled in the International Baccalaureate Program generate full-time equivalent student membership. During 1997-1998, a maximum of 40 students in each participating school district are authorized to generate full-time equivalent student membership in the pilot program, and in 1998-1999 and 1999-2000 a maximum of 80 students per year in each participating school district are authorized to generate full-time equivalent student membership in the pilot program.*

Section 17. Subsection (6) of section 240.16, Florida Statutes, 1996 Supplement, is amended to read:

240.116 Articulated acceleration.—

(6) The International Baccalaureate Program shall be the curriculum in which eligible secondary students are enrolled in a program of studies offered through the International Baccalaureate Program administered by the International Baccalaureate Office. The State Board of Education shall establish rules which specify the cutoff scores and International Baccalaureate Examinations which will be used to grant postsecondary credit at community colleges and universities. Any such rules, which have the effect of raising the required cutoff score or of changing the International Baccalaureate Examinations which will be used to grant postsecondary credit, shall only apply to students taking International Baccalaureate Examinations after such rules are adopted by the State Board of Education. Students shall be awarded a maximum of 30 semester credit hours pursuant to this subsection. The specific course for which a student receives such credit shall be determined by the community college or university that accepts the student for admission. Students enrolled pursuant to this subsection shall be exempt from the payment of any fees for administration of the examinations. *During the 1997-1998, 1998-1999, and 1999-2000 school years, the Department of Education shall assist up to three school districts in conducting a pilot of the Advanced International Certificate of Education Program administered by the University of Cambridge Local Examinations Syndicate. The department shall produce an evaluation report and recommendations regarding the comparability of the Advanced International Certificate of Education Program to the International Baccalaureate Program and submit the report to the President of the Senate and the Speaker of the House of Representatives on or before October 1, 2000.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 24, line 7, after the semicolon (;) insert: amending s. 236.081, F.S.; establishing full-time equivalent student membership in the program; amending s. 240.116, F.S.; directing the Department of Education to create a pilot of the Advanced International Certificate of Education Program; requiring a report and recommendations;

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

Amendment 1M (with title amendment)—On page 22, between lines 8 and 9, insert:

Section 16. Paragraph (f) of subsection (2) of section 239.117, Florida Statutes, 1996 Supplement, is amended to read:

239.117 Postsecondary student fees.—

(2)

(f) A student enrolled in an employment and training program under the WAGES Program. Such a student may receive a fee exemption only if the student applies for and does not receive student financial aid, including Job Training Partnership Act or Family Support Act funds.

Schools and community colleges shall help such students apply for financial aid, but may not deny such students program participation during the financial aid application process. Such a student may not be required to incur debt within the financial aid package. *The local WAGES coalition shall pay the community college or school district for costs incurred for WAGES clients. Other fee-exempt instruction provided at community colleges pursuant to this subsection generates an additional one-fourth of a full-time equivalent enrollment.*

Section 17. Paragraph (e) is added to subsection (5) of section 239.301, Florida Statutes, 1996 Supplement, to read:

239.301 Adult general education.—

(5)

(e) *A district school board or a community college board of trustees may negotiate a contract with the local WAGES coalition for specialized services for WAGES clients, beyond what is routinely provided for the general public, to be funded by the WAGES coalition pursuant to s. 414.065.*

Section 18. Subsection (3) of section 240.35, Florida Statutes, 1996 Supplement, is amended to read:

240.35 Student fees.—Unless otherwise provided, the provisions of this section apply only to fees charged for college credit instruction.

(3) Students enrolled in dual enrollment and early admission programs ~~under pursuant to s. 240.116~~ and students enrolled in employment and training programs under the WAGES Program are exempt from the payment of registration, matriculation, and laboratory fees; however, such students may not be included within calculations of fee-waived enrollments. *The community college shall assist a student under the WAGES program in obtaining financial aid as it would any other student. A student under the WAGES program may not be denied participation in programs during the application process for financial aid. If financial aid is denied, the local WAGES coalition shall pay the community college for costs incurred by that WAGES participant related to that person's classes or program. Students enrolled in programs under the WAGES Program shall be granted a fee exemption only if they have applied for student financial aid including Job Training Partnership Act or Family Support Act funds and did not receive financial assistance. Colleges shall assist these students in applying for financial aid, and these students may not be denied participation in programs during the application process for financial aid. These students may not be required to obtain loans as a part of their financial aid package. Other fee-exempt instruction provided under pursuant to this subsection generates shall generate an additional one-fourth full-time equivalent enrollment.*

Section 19. Subsections (1) and (2) of section 414.065, Florida Statutes, 1996 Supplement, are amended to read:

414.065 Work requirements.—

(1) WORK ACTIVITIES.—The following activities may be used individually or in combination to satisfy the work requirements for a participant in the WAGES Program:

(a) Unsubsidized employment.—Unsubsidized employment is full-time employment or part-time employment that is not directly supplemented by federal or state funds. *Paid apprenticeship and cooperative education activities are included in this activity.*

(b) Subsidized private sector employment.—Subsidized private sector employment is employment in a private for-profit enterprise or a private not-for-profit enterprise which is directly supplemented by federal or state funds. A subsidy may be provided in one or more of the forms listed in this paragraph.

1. Work supplementation.—A work supplementation subsidy diverts a participant's assistance under the program to the employer. The employer must pay the participant wages that equal or exceed the applicable federal minimum wage. Work supplementation may not exceed 6 months. At the end of the supplementation period, the employer is expected to retain the participant as a regular employee without receiving a subsidy for at least 12 months. The work supplementation agreement must provide that if the employee is dismissed at any time within 12 months after termination of the supplementation period due in any part

to loss of the supplement, the employer shall repay some or all of the supplement previously paid as a subsidy to the employer under the WAGES Program.

2. On-the-job training.—On-the-job training is full-time, paid employment in which the employer or an educational institution in cooperation with the employer provides training needed for the participant to perform the skills required for the position. The employer or the educational institution on behalf of the employer receives a subsidy to offset the cost of the training provided to the participant. Upon satisfactory completion of the training, the employer is expected to retain the participant as a regular employee without receiving a subsidy. The on-the-job training agreement must provide that in the case of dismissal of a participant due to loss of the subsidy, the employer shall repay some or all of the subsidy previously provided by the department.

3. Incentive payments.—The department may provide additional incentive payments to encourage employers to employ program participants. Incentive payments may include payments to encourage the employment of hard-to-place participants, in which case the amount of the payment shall be weighted proportionally to the extent to which the participant has limitations associated with the long-term receipt of welfare and difficulty in sustaining employment. In establishing incentive payments, the department shall consider the extent of prior receipt of welfare, lack of employment experience, lack of education, lack of job skills, and other appropriate factors. A participant who has complied with program requirements and who is approaching the time limit for receiving temporary assistance may be defined as “hard-to-place.” Incentive payments may include payments in which an initial payment is made to the employer upon the employment of a participant, and the majority of the incentive payment is made after the employer retains the participant as a full-time employee for at least 12 months. The incentive agreement must provide that if the employee is dismissed at any time within 12 months after termination of the incentive payment period due in any part to loss of the incentive, the employer shall repay some or all of the payment previously paid as an incentive to the employer under the WAGES Program.

4. Tax credits.—An employer who employs a program participant may qualify for enterprise zone property tax credits under s. 220.182, the tax refund program for qualified target industry businesses under s. 288.106, or other federal or state tax benefits. The department shall provide information and assistance, as appropriate, to use such credits to accomplish program goals.

(c) Subsidized public sector employment.—Subsidized public sector employment is employment by an agency of the federal, state, or local government which is directly supplemented by federal or state funds. The applicable subsidies provided under paragraph (b) may be used to subsidize employment in the public sector, except that priority for subsidized employment shall be employment in the private sector. Public sector employment is distinguished from work experience in that the participant is paid wages and receives the same benefits as a nonsubsidized employee who performs similar work. *Work-study activities administered by educational institutions are included in this activity.*

(d) Community service work experience.—Community service work experience is job training experience at a supervised public or private not-for-profit agency. A participant shall receive temporary assistance in the form of wages that are proportional to the amount of time worked. A participant assigned to community service work experience shall be deemed an employee of the state for purposes of workers' compensation coverage and is subject to the requirements of the drug-free workplace program. *Community service work experience may be selected as an activity for a participant who needs to increase employability by improving his or her interpersonal skills, job-retention skills, stress management, and job problem solving, and by learning to attain a balance between job and personal responsibilities. Community service is intended to:*

1. Assess WAGES program compliance before referral of the participant to costly services such as career education;
2. Maintain work activity status while the participant awaits placement into paid employment or training;
3. Fulfill a clinical practicum or internship requirement related to employment; or

4. Provide work-based mentoring.

As used in this paragraph, the terms “community service experience,” “community work,” and “workfare” are synonymous.

(e) Work experience.—*Work experience is an appropriate work activity for participants who lack preparation for or experience in the workforce. It must combine a job training activity in a public or private not-for-profit agency with education and training related to an employment goal. To qualify as a work activity, work experience must include education and training in addition to the time required by the work activity, and the work activity must be intensively supervised and structured. The WAGES program shall contract for any services provided for clients who are assigned to this activity and shall require performance benchmarks, goals, outcomes, and time limits designed to assure that the participant moves toward full-time paid employment. A participant shall receive temporary cash assistance proportional to the time worked. A participant assigned to work experience is an employee of the state for purposes of worker's compensation coverage and is subject to the requirements of the drug-free workplace program.*

(f)(e) Job search and job readiness assistance.—Job search assistance may include supervised or unsupervised job-seeking activities. Job readiness assistance provides support for job-seeking activities, which may include:

1. Orientation to the world of work and basic job-seeking and job retention skills.
2. Instruction in completing an application for employment and writing a resume.
3. Instruction in conducting oneself during a job interview, including appropriate dress.
4. Instruction in how to retain a job, plan a career, and perform successfully in the workplace.

Job readiness assistance may also include providing a participant with access to an employment resource center that contains job listings, telephones, facsimile machines, typewriters, and word processors. Job search and job readiness activities may be used in conjunction with other program activities, such as work experience, but may not be the primary work activity, may not be used in conjunction with other program activities such as work experience, and may not continue longer than the length of time permitted under federal law.

(g)(f) Vocational education or training.—Vocational education or training is education or training designed to provide participants with the skills and certification necessary for employment in an occupational area. Vocational education or training may be used as a primary program activity for participants when it has been determined that the individual has demonstrated compliance with other phases of program participation and successful completion of the vocational education or training is likely to result in employment entry at a higher wage than the participant would have been likely to attain without completion of the vocational education or training. Vocational education or training may be combined with other program activities and also may be used to upgrade skills or prepare for a higher paying occupational area for a participant who is employed.

1. Vocational education shall not be used as the primary program activity for a period which exceeds 12 months. *The 12-month restriction applies to instruction in a career education program and does not include remediation of basic skills through adult general education if remediation is necessary to enable a WAGES participant to benefit from a career education program. Any necessary remediation must be completed before a participant is referred to vocational education as the primary work activity.* In addition, use of vocational education or training shall be restricted to not more than 20 percent of adult participants in the WAGES region, or subject to other limitation as established in federal law. Vocational education included in a program leading to a high school diploma shall not be considered vocational education for purposes of this section.

2. ~~When To the maximum extent possible,~~ a provider of vocational education or training shall use funds provided by funding sources other than the department. The department may provide additional funds to a vocational education or training provider only if payment is made pursuant to a performance-based contract. Under a performance-based

contract, the provider may be partially paid when a participant completes education or training, but the majority of payment shall be made following the participant's employment at a specific wage or job retention for a specific duration. Performance-based payments made under this subparagraph are limited to education or training for targeted occupations identified by the Occupational Forecasting Conference under s. 216.136, or other programs identified by the Enterprise Florida Jobs and Education Partnership as beneficial to meet the needs of designated groups, such as WAGES participants, who are hard to place. If the contract pays the full cost of training, the community college or school district may not report the participants for other state funding, except that the college or school district may report WAGES clients for performance incentives or bonuses authorized for student enrollment, completion, and placement. ~~A contract with a community college or school district must conform to the provisions of ss. 239.249 and 240.40685.~~

(h)(g) Job skills training directly related to employment.—Job skills training directly related to employment provides job skills training in a specific occupation for which there is a written commitment by the employer to offer employment to a participant who successfully completes the training. Job skills training includes customized training designed to meet the needs of a specific employer or a specific industry. A participant may be required to complete an entrance assessment or test before entering into job skills training if assessments or tests are required for employment upon completion of the training. *Job skills training includes literacy instruction in the workplace if necessary to enable a participant to perform in a specific job or job training program.*

(i)(h) Education services related to employment for participants 19 years of age or younger.—Education services provided under this paragraph are designed to prepare a participant for employment in an occupation. The Department of Labor and Employment Security shall coordinate education services with the school-to-work activities provided under s. 229.595. Activities provided under this paragraph are restricted to participants 19 years of age or younger who have not completed high school or obtained a high school equivalency diploma.

(j)(i) School attendance.—Attendance at a high school or attendance at a program designed to prepare the participant to receive a high school equivalency diploma is a required program activity for each participant 19 years of age or younger who:

1. Has not completed high school or obtained a high school equivalency diploma;
2. Is a dependent child or a head of household; and
3. For whom it has not been determined that another program activity is more appropriate.

(k)(j) Teen parent services.—Participation in medical, educational, counseling, and other services that are part of a comprehensive program is a required activity for each teen parent who participates in the WAGES Program.

(2) WORK ACTIVITY REQUIREMENTS.—Each adult participant who is not otherwise exempt must participate in a work activity for the maximum number of hours allowable under federal law provided that no participant be required to work more than 40 hours per week or less than the minimum number of hours required by federal law. An applicant shall be referred for employment at the time of application if the applicant is eligible to participate in the WAGES Program.

(a) A participant in a work activity may also be required to enroll in and attend a course of instruction designed to increase literacy skills to a level necessary for obtaining or retaining employment, provided that the instruction plus the work activity does not require more than 40 hours per week.

(b) WAGES program funds may be used, as available, to support the efforts of a participant who meets the work activity requirements and who wishes to enroll in or continue enrollment in an adult general education program or a career education program.

Section 20. Section 414.055, Florida Statutes, 1996 Supplement, is amended to read:

414.055 *One-stop career centers Jobs and benefits offices.*—

(1) *It is the intent of the Legislature that one-stop career centers developed by community coalitions or public/private partnerships that involve the business community, educational institutions, governmental entities, and community-based organizations should be the principal service-delivery mechanism for services associated with the WAGES program, employment services, and workforce development.*

(2) *Local WAGES coalitions and regional workforce boards must coordinate the planning and implementation of one-stop career centers and services so as to avoid unnecessary duplication of services and facilities.*

(3) *If a one-stop career center as described in subsection (1) has been established, neither the Department of Children and Family Services nor the Department of Labor and Employment Security may establish a one-stop career center to serve the same population or geographic area. The Department of Children and Family Services and the Department of Labor and Employment Security must assign to the established one-stop career center the number and classification of staff which is appropriate and necessary for effective operation of the one-stop career center.*

(4)(4) *Staff of the Division of Jobs and Benefits of the Department of Labor and Employment Security, staff of the Department of Children and Family Services, and staff of other public and private agencies and institutions shall establish jobs and benefits offices in this state, which shall function as one-stop centers to provide a central location at which the staff of the Department of Labor and Employment Security and the staff of the department shall deliver services to applicants for and participants in the WAGES Program at one-stop career centers.*

(5)(2) At the one-stop career centers, staff of the Department of Children and Family Services shall:

(a) Accept applications and determine or redetermine the eligibility of a family to participate in the WAGES Program.

(b) Accept applications and determine or redetermine the eligibility of an individual or family to receive subsidized child care or emergency assistance, including housing assistance.

(c) Assess need and arrange for providing diversion assistance or emergency assistance.

(6)(3) At the one-stop career centers center, staff of the Department of Labor and Employment Security shall assign a participant in the WAGES Program to an approved work activity.

~~(4) A public employment office established by the Division of Jobs and Benefits of the Department of Labor and Employment Security under s. 443.181, or a one-stop career center approved by the jobs and education regional board, may function as a jobs and benefits office established under this section.~~

(Renumber subsequent section.)

And the title is amended as follows:

On page 24, line 7, after the semicolon (;) insert: amending s. 239.117, F.S.; authorizing payment for costs incurred in certain instances; amending s. 239.301, F.S.; authorizing a contract for certain adult education services; amending s. 240.35, F.S.; authorizing payment for costs incurred in certain instances; amending s. 414.065, F.S.; adding activities related to education and training to certain requirements for WAGES participants; amending s. 414.055, F.S.; replacing jobs and benefits offices with one-stop career centers to provide services for the WAGES program, employment services, and workforce development; providing legislative intent; requiring local WAGES coalitions and regional workforce boards to coordinate efforts to avoid unnecessary duplication of services and facilities; providing restrictions and requirements for the centers; providing duties of the Department of Children and Family Services and the Department of Labor and Employment Security;

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **HB 1545** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Lee, the Senate resumed consideration of—

HB 1663—A bill to be entitled An act relating to interscholastic extracurricular student activities; amending s. 232.425, F.S., relating to student standards for participation in interscholastic extracurricular student activities; defining the term “extracurricular”; providing for the accessibility of such activities to home education students; providing an effective date.

—which was previously considered this day.

Pursuant to Rule 4.19, **HB 1663** was placed on the calendar of Bills on Third Reading.

THE PRESIDENT PRESIDING

On motion by Senator Harris—

CS for HB 703—A bill to be entitled An act relating to school district personnel; amending s. 230.23, F.S., relating to powers and duties of district school boards; requiring the adoption of salary schedules based on performance assessments of instructional personnel; amending s. 230.33, F.S.; requiring superintendents to recommend salary schedules for instructional personnel based on performance assessments; requiring certain input; creating s. 231.2905, F.S.; creating the Florida School Recognition Program to provide financial awards to selected faculty and staff of identified schools; providing criteria for selection; amending s. 236.02, F.S., relating to participation in the Florida Education Finance Program; requiring expenditures for instructional personnel salaries based on performance assessments; providing an effective date.

—was read the second time by title.

The Committee on Education recommended the following amendments which were moved by Senator Harris and failed:

Amendment 1—On page 4, lines 12-15, delete those lines and insert: *improvement due to innovation and effort. The Commissioner of Education shall establish statewide objective criteria and publish such criteria prior to October, 1997, for schools to be invited to apply for the Florida School Recognition Program at the beginning of the 1998-99 school year, if funds are available. The selection of schools must be based*

Amendment 2—On page 6, line 15, delete “1998” and insert: 1997

Pursuant to Rule 4.19, **CS for HB 703** was placed on the calendar of Bills on Third Reading.

On motion by Senator Horne—

CS for SB 716—A bill to be entitled An act relating to sentencing; repealing ss. 921.0001, 921.001, 921.0011, 921.0012, 921.0013, 921.0014, 921.0015, 921.0016, 921.005, F.S., relating to the statewide sentencing guidelines; providing for application; creating the Florida Criminal Punishment Code; providing for the code to apply to felonies committed on or after a specified date; creating s. 921.002, F.S.; providing for the Legislature to develop, implement, and revise a sentencing policy; specifying the principles embodied by the Criminal Punishment Code; providing requirements for sentencing a defendant for more than one felony; authorizing a court to impose a sentence below the permissible sentencing range; specifying the level of proof required to justify such a sentence; creating s. 921.0021, F.S.; providing definitions; creating s. 921.0022, F.S.; providing an offense severity ranking chart to be used in computing a sentence score for a felony offender; creating s. 921.0023, F.S.; providing for ranking felony offenses that are unlisted on the severity ranking chart; creating s. 921.0024, F.S.; providing a worksheet for computing sentence points under the Criminal Punishment Code; providing for points to be assessed based on the offender’s legal status; providing for sentencing multipliers; providing requirements for the state attorney and the Department of Corrections in preparing scoresheets; requiring the clerk of the circuit court to distribute scoresheets and transmit copies to the Department of Corrections; creating s. 921.0026, F.S.; specifying circumstances that constitute mitigating circumstances for purposes of sentencing; amending s. 20.315, F.S.; deleting a requirement that the Florida Corrections Commission review proposed changes to the statewide sentencing guidelines; amending s.

39.0581, F.S.; providing for the criteria under which a juvenile is committed to a maximum-risk residential program to be based on the ranking of the offense under the Criminal Punishment Code; amending s. 775.0823, F.S.; providing for a person convicted of certain violent offenses against a law enforcement officer, correctional officer, state attorney, assistant state attorney, justice, or judge to be sentenced under the Criminal Punishment Code; amending s. 775.084, F.S.; deleting a requirement that the courts submit reports to the Sentencing Commission; conforming a reference to changes made by the act; amending ss. 775.0845, 775.087, 775.0875, F.S., relating to wearing a mask while committing an offense, possessing a weapon while committing a felony, and taking a law enforcement officer’s firearm; requiring that such offenses be ranked under the Criminal Punishment Code; amending s. 777.03, F.S., relating to the offense of being an accessory to a crime; providing for ranking such offense; amending s. 777.04, F.S.; requiring that a person convicted of criminal attempt, criminal solicitation, or criminal conspiracy be sentenced under the Criminal Punishment Code; amending s. 782.051, F.S.; requiring that certain offenses that result in bodily injury be ranked under the Criminal Punishment Code; amending s. 784.08, F.S.; requiring that a person convicted of assault and battery against an elderly person be sentenced under the Criminal Punishment Code; amending ss. 794.023, 874.04, F.S., relating to sexual battery by multiple perpetrators and to criminal street-gang activity; requiring that such offenses be ranked under the offense severity ranking chart of the Criminal Punishment Code; amending s. 893.13, F.S., relating to the offense of selling, manufacturing, or possessing certain controlled substances; conforming provisions to changes made by the act; amending s. 893.135, F.S.; requiring that a person convicted of certain drug-trafficking offenses be sentenced under the Criminal Punishment Code; amending s. 893.20, F.S.; requiring that a person convicted of engaging in a continuing criminal enterprise be sentenced under the Criminal Punishment Code; amending s. 921.187, F.S., relating to disposition and sentencing; conforming provisions to changes made by the act; amending s. 921.188, F.S.; providing certain conditions based on the Criminal Punishment Code under which a felon may be placed in a local detention facility; amending ss. 924.06, 924.07, F.S., relating to appeals; deleting a provision that allows a defendant to appeal a sentence imposed outside a range formerly permitted under chapter 921, F.S.; authorizing the state to appeal a sentence imposed below the range permitted by the Criminal Punishment Code; amending s. 944.17, F.S.; requiring that the sentencing scoresheet for a prisoner be submitted to the Department of Corrections; amending ss. 947.141, 947.146, 947.168, F.S., relating to violations of conditional release or control release and parole eligibility; conforming provisions to changes made by the act; amending s. 948.015, F.S., relating to presentence reports; conforming provisions to changes made by the act; amending s. 948.034, F.S., relating to terms and conditions of probation; conforming references; amending s. 948.51, F.S.; revising requirements for a county or county consortium in developing a public safety plan to conform to changes made by the act; amending s. 958.04, F.S., relating to judicial disposition of youthful offenders; providing certain limitations on sentences based on the Criminal Punishment Code; amending s. 921.0014, F.S.; providing requirements for the state attorney with respect to preparing sentencing scoresheets; amending ss. 397.705, 893.15, F.S.; requiring that a referral of an offender to a treatment provider or to drug rehabilitation be in addition to adjudication or imposition of sentence rather than as an alternative to adjudication or imposition of sentence; amending s. 921.001, F.S.; providing for certain persons sentenced on or after a specified date whose recommended sentence is a nonstate prison sanction to be eligible for incarceration up to a specified period; amending s. 921.0016, F.S.; deleting a provision that allows and expressly prohibits addition to be a mitigating circumstance for purposes of sentencing; providing effective dates.

—was read the second time by title.

The Committee on Governmental Reform and Oversight recommended the following amendment which was moved by Senator Gutman and adopted:

Amendment 1—On page 6, line 29, after the period (.) insert: *The provisions of chapter 947, relating to parole, shall not apply to persons sentenced under the Criminal Punishment Code.*

The Committee on Governmental Reform and Oversight recommended the following amendment which was moved by Senator Gutman:

Amendment 2—On page 97, lines 12 and 13, delete those lines and insert: *has at least one prior felony conviction and whose maximum recommended sentence is under 22 months may be sentenced to*

Senator Horne moved the following substitute amendment which was adopted:

Amendment 3 (with title amendment)—On page 97, line 15, after the period (.) insert: *A person sentenced for a felony committed on or after July 1, 1997, who has at least one prior felony conviction and whose minimum recommended sentence is less than 22 months in state prison may be sentenced to a term of incarceration not to exceed 22 months.*

And the title is amended as follows:

On page 5, line 12, after "sanction" insert: *or less than 22 months*

The Committee on Governmental Reform and Oversight recommended the following amendments which were moved by Senator Gutman and adopted:

Amendment 4 (with title amendment)—On page 98, between lines 17 and 18, insert:

Section 42. *The Florida Criminal Punishment Code applies to all felonies, except capital felonies, committed on or after October 1, 1998. Any revision to the Criminal Punishment Code applies to sentencing for all felonies, except capital felonies, committed on or after the effective date of the revision. Felonies, except capital felonies, with continuing dates of enterprise shall be sentenced under the Criminal Punishment Code in effect on the beginning date of the criminal activity.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 5, line 13, after the semicolon (;) insert: *providing that capital felonies are excluded from the punishment code; providing clarification for application of future code revisions;*

Amendment 5 (with title amendment)—On page 98, between lines 17 and 18, insert:

Section 42. *The Division of Statutory Revision of the Joint Legislative Management Committee shall leave the repealed statutory provisions referenced herein in the Florida Statutes for 10 years from October 1, 1998.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 5, line 17, after the semicolon (;) insert: *providing a directive to the Division of Statutory Revision to maintain certain repealed provisions in the Florida Statutes for ten years;*

The Committee on Governmental Reform and Oversight recommended the following amendment which was moved by Senator Gutman:

Amendment 6—On page 98, delete line 19 and insert: *this act, sections 1 through 36, 42, and 43 of this act shall take effect*

Senator Gutman moved the following substitute amendment which was adopted:

Amendment 7—On page 98, lines 19-21, delete those lines and insert: *this act, sections 1 through 12, sections 14 through 36, and sections 42 and 43 shall take effect October 1, 1998; this section and section 13 shall take effect upon becoming a law; and the remaining sections of this act shall take effect July 1, 1997.*

Senator Gutman moved the following amendments which were adopted:

Amendment 8—On page 55, line 15 through page 56, line 8, delete those lines and insert:

775.0845 Wearing mask while committing offense; *reclassification enhanced penalties.*—*The felony or misdemeanor degree of penalty for any criminal offense, other than a violation of ss. 876.12-876.15, shall be reclassified to the next higher degree increased as provided in this section*

if, while committing the offense, the offender was wearing a hood, mask, or other device that concealed his *or her* identity.

(1)(a) *In the case of a misdemeanor of the second degree, the offense is reclassified to shall be punishable as if it were a misdemeanor of the first degree.*

(b) *In the case of a misdemeanor of the first degree, the offense is reclassified to 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) *In the case of a felony of the third degree, the offense is reclassified to shall be punishable as if it were a felony of the second degree.*

(b) *In the case of a felony of the second degree, the offense is reclassified to 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 *that which* is reclassified under this subsection is ranked one level above the ranking under s. 921.0012, ~~or~~ s. 921.0013, s. 921.0022, or s. 921.0023 of the offense committed.

Amendment 9—In title, on page 1, delete line 2 and insert: *An act relating to criminal justice; repealing ss.*

Pursuant to Rule 4.19, **CS for SB 716** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

SPECIAL GUESTS

The President introduced the following guests of The Honorable Pete Peterson, U. S. Ambassador to Vietnam, who were present in the gallery: H. E. Win Din Bin, Deputy Minister of Foreign Affairs; Fam Van Kway, Deputy Director for the Americas; Le Zong, First Secretary of Embassy of Vietnam, Washington, D. C.

CS for CS for SB's 1566 and 114—A bill to be entitled An act relating to the representation of persons sentenced to death; amending s. 27.701, F.S.; providing for the office of capital collateral representative to be replaced by three capital collateral regional counsels appointed within the northern, middle, and southern regions of the state; providing for nominations of the regional counsels by the Supreme Court Judicial Nominating Commission; requiring the Governor to appoint the regional counsels; providing for terms of office; prohibiting a regional counsel from running for or accepting appointment to a state office for a specified period after leaving office; specifying the duties of the capital collateral regional counsel; establishing the independence of the regional offices but consolidating the administrative functions of three offices within the Justice Administrative Commission; authorizing the court to assess attorney's fees and costs against a nonindigent or indigent-but-able-to-contribute defendant; providing for a determination of indigency; requiring the regional counsel to provide certain reports to the President of the Senate, the Speaker of the House of Representatives, and the Commission on the Administration of Justice in Capital Cases; amending s. 27.703, F.S.; providing for the appointment of substitute counsel in instances of conflict of interest; establishing qualifications for appointed counsel; establishing a rate of compensation for attorney's fees in such cases; providing for employment of law school graduates; amending s. 27.704, F.S.; authorizing the capital collateral regional counsel to appoint assistant counsel, investigators, and support personnel; providing employment qualifications for certain positions; amending s. 27.705, F.S.; providing for the capital collateral counsel to be paid under the General Appropriations Act; providing for the payment of office and travel expenses; requiring the regional counsel to submit a pay plan each year to the Joint Legislative Management Committee; amending s. 27.706, F.S.; prohibiting the capital collateral regional counsel and full-time assistants from engaging in the private practice of law; amending s. 27.707, F.S.; authorizing investigators employed by the capital collateral regional counsel to serve subpoenas and court orders; amending s. 27.708, F.S.; providing for access to persons sentenced to death who are incarcerated; requiring the regional counsel and contracted private counsel to comply with the Rules of Criminal Procedure; requiring the

regional counsel to approve requests for public records made by assistant counsel or appointed counsel; creating the Commission on the Administration of Justice in Capital Cases; providing for membership; setting terms of membership; providing for the selection of a chair; providing for per diem and travel expenses; requiring quarterly meetings of the commission; providing for the Joint Legislative Management Committee to staff the commission; requiring the commission to review the administration of justice in capital collateral cases, receive relevant public input, review the operation of the regional offices of capital collateral counsel, and advise and make recommendations to the Governor, Legislature, and Supreme Court; requiring that the commission hear complaints regarding the practice of any such office; amending s. 16.01, F.S.; requiring that the Attorney General act as co-counsel in capital collateral proceedings; amending s. 924.051, F.S.; limiting collateral and postconviction relief in any capital case to motions that allege newly discovered evidence or a change in the law; prohibiting the testimony of an expert witness in any such case unless approved by the court; providing recommendations for the Supreme Court; providing a transition period; authorizing the Governor to appoint interim and regional counsel by specified dates; authorizing attorneys to continue representation of clients during the transitional period; providing an effective date.

—was read the second time by title.

Amendments were considered to conform **CS for CS for SB's 1566 and 114 to CS for HB 1091**.

Pending further consideration of **CS for CS for SB's 1566 and 114** as amended, on motion by Senator Burt, by two-thirds vote **CS for HB 1091** was withdrawn from the Committees on Criminal Justice; Ways and Means; and Rules and Calendar.

On motion by Senator Burt—

CS for HB 1091—A bill to be entitled An act relating to the representation of persons sentenced to death; amending s. 27.701, F.S.; providing for the office of capital collateral representative to be replaced by three capital collateral regional counsels appointed within the northern, middle, and southern regions of the state; providing for nominations of the regional counsels by the Supreme Court Judicial Nominating Commission; requiring the Governor to appoint the regional counsels; providing for terms of office; prohibiting a regional counsel from running for or accepting appointment to a state office for a specified period after leaving office; amending s. 27.702, F.S.; specifying the duties of the capital collateral regional counsel; establishing the independence of the regional offices but consolidating the administrative functions of three offices within the Justice Administrative Commission; authorizing the court to assess attorney's fees and costs against a nonindigent or indigent-but-able-to-contribute defendant; providing for a determination of indigency; requiring the regional counsel to provide certain reports to the President of the Senate, the Speaker of the House of Representatives, and the Commission on the Administration of Justice in Capital Cases; amending s. 27.703, F.S.; providing for the appointment of substitute counsel in instances of conflict of interest; establishing qualifications for appointed counsel; establishing a rate of compensation for attorney's fees in such cases; amending s. 27.704, F.S.; authorizing the capital collateral regional counsel to appoint assistant counsel, investigators, and support personnel; providing for employment of law school graduates; providing employment qualifications for certain positions; providing for contracts with private counsel or public defenders; amending s. 27.705, F.S.; providing for the capital collateral counsel to be paid under the General Appropriations Act; providing for the payment of office and travel expenses; requiring the regional counsel to submit a pay plan each year; amending s. 27.706, F.S.; prohibiting the capital collateral regional counsel and full-time assistants from engaging in the private practice of law; amending s. 27.707, F.S.; authorizing investigators employed by the capital collateral regional counsel to serve subpoenas and court orders; amending s. 27.708, F.S.; providing for access to persons sentenced to death who are incarcerated; requiring the regional counsel and contracted private counsel to comply with the Rules of Criminal Procedure; requiring the regional counsel to approve requests for public records made by assistant counsel or appointed counsel; creating the Commission on the Administration of Justice in Capital Cases; providing for membership; setting terms of membership; providing for the selection of a chair; providing for per diem and travel expenses; requiring quarterly meetings of the commission; providing for the Joint Legislative Management Committee to staff the commission; requiring the commission to review the administration of justice in capital collateral cases, receive relevant public input, review the operation of the

regional offices of capital collateral counsel, and advise and make recommendations to the Governor, Legislature, and Supreme Court; requiring that the commission hear complaints regarding the practice of any such office; amending s. 16.01, F.S.; requiring that the Attorney General act as co-counsel in capital collateral proceedings; amending s. 924.051, F.S.; providing circumstances under which a motion for collateral or postconviction relief in any capital case may be considered after a specified date; prohibiting the testimony of an expert witness in any such case unless approved by the court; providing recommendations for the Supreme Court; providing a transition period; authorizing the Governor to appoint interim and regional counsel by specified dates; authorizing attorneys to continue representation of clients during the transitional period; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB's 1566 and 114** as amended and read the second time by title. On motion by Senator Burt, by two-thirds vote **CS for HB 1091** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Dantzler	Horne	Myers
Bankhead	Diaz-Balart	Jenne	Ostalkiewicz
Bronson	Dudley	Jones	Rossin
Brown-Waite	Dyer	Kirkpatrick	Scott
Burt	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams
Crist	Holzendorf	Meadows	

Nays—None

Vote after roll call:

Yea—Campbell

On motion by Senator Horne, by two-thirds vote **CS for HB 1319** was withdrawn from the Committees on Judiciary; and Ways and Means.

On motions by Senator Horne, by two-thirds vote—

CS for HB 1319—A bill to be entitled An act relating to court funding; creating s. 25.402, F.S.; providing for compensation to counties for certain costs through a trust fund administered by the Supreme Court; requiring adoption by the Supreme Court of an allocation and disbursement plan; providing for appointment of a committee to develop the plan; providing guidelines for deposit in the trust fund of moneys generated from certain civil penalties; providing that the funds paid to counties shall be grants-in-aid for specified purposes; providing for future repeal; amending s. 318.21, F.S., relating to the disposition of civil penalties by county courts; providing for distribution of civil penalties to the County Article V Trust Fund beginning July 1, 1998; providing for future repeal of specified provisions; providing for future disposition of the funds to the General Revenue Fund upon repeal of specified provisions; providing a directive to the Statutory Revision Division; 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 provide and maintain court facilities; requiring clerks of court to submit specified financial reports; amending s. 27.34, F.S.; revising a provision relating to the services and office space provided by the counties to the state attorneys; providing effective dates.

—a companion measure, was substituted for **CS for CS for SB 722** and by two-thirds vote read the second time by title. On motion by Senator Horne, by two-thirds vote **CS for HB 1319** 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

Madam President	Campbell	Crist	Gutman
Bankhead	Casas	Dantzler	Hargrett
Bronson	Childers	Dudley	Harris
Brown-Waite	Clary	Forman	Holzendorf
Burt	Cowin	Grant	Horne

Jenne	Latvala	Ostalkiewicz	Thomas
Jones	Lee	Rossin	Turner
Kirkpatrick	McKay	Scott	Williams
Klein	Meadows	Silver	
Kurth	Myers	Sullivan	

Nays—None

Vote after roll call:

Yea—Dyer

On motion by Senator Ostalkiewicz, by two-thirds vote **CS for CS for HB 1371** was withdrawn from the Committees on Criminal Justice; and Ways and Means.

On motion by Senator Ostalkiewicz—

CS for CS for HB 1371—A bill to be entitled An act relating to criminal justice; creating the “Prison Releasee Reoffender Punishment Act”; amending s. 775.082, F.S.; defining “prison releasee reoffender”; providing that certain reoffenders are ineligible for sentencing under the sentencing guidelines under specified circumstances when the reoffender has been released from correctional custody and, within 3 years of being released, commits treason, murder, manslaughter, sexual battery, carjacking, home-invasion robbery, robbery, arson, kidnapping, aggravated assault, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing, or discharging of a destructive device or bomb, a felony involving the use or threat of physical force or violence against an individual, armed burglary, burglary of an occupied structure or dwelling, burglary when the person has two prior felony convictions, or a felony violation of s. 790.07, F.S., relating to having weapons while engaged in criminal offense, s. 800.04, F.S., relating to lewd, lascivious, or indecent assault or act upon or in presence of child, s. 827.03, F.S., relating to abuse, aggravated abuse, or neglect of child, or s. 827.071, F.S., relating to sexual performance by a child; providing for such reoffender to be sentenced to specified mandatory minimum sentences; making such reoffender ineligible for parole, probation, or early release; providing for forfeiture by the reoffender of gain-time or other early release credits; providing legislative intent to prohibit plea bargaining in re-offender cases; requiring state attorneys to submit reports regarding any sentencing deviations; amending s. 944.705, F.S., relating to release orientation program; requiring notice to certain released offenders by the Department of Corrections with respect to the new minimum mandatory sentencing provisions; providing for inadmissibility of certain evidence regarding departmental failure to provide such notice; amending s. 947.141, F.S.; providing for mandatory forfeiture of previously granted early release credits under specified circumstances when conditional release, control release, or conditional medical release is revoked; amending s. 948.06, F.S.; permitting a law enforcement officer to arrest a probationer or offender in community control upon probable cause that the probationer or offender has materially violated probation or community control, under specified circumstances; providing for mandatory forfeiture of previously granted early release credits under specified circumstances when probation or community control is revoked; reenacting ss. 948.01(9) and (13)(b) and 958.14, F.S., to incorporate said amendment in references; providing an effective date.

—a companion measure, was substituted for **CS for SB 2362** and read the second time by title.

Senator Ostalkiewicz moved the following amendment which was adopted:

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

Section 1. *This act may be cited as the “Prison Releasee Reoffender Punishment Act.”*

Section 2. Section 775.082, Florida Statutes, is amended to read:

775.082 Penalties; mandatory minimum sentences for certain reoffenders previously released from prison.—

(1) A person who has been convicted of a capital felony shall be punished by death if the proceeding held to determine sentence according to the procedure set forth in s. 921.141 results in findings by the

court that such person shall be punished by death, otherwise such person shall be punished by life imprisonment and shall be ineligible for parole.

(2) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in subsection (1).

(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.

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.

(4) A person who has been convicted of a designated misdemeanor may be sentenced as follows:

(a) For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year;

(b) For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days.

(5) Any person who has been convicted of a noncriminal violation may not be sentenced to a term of imprisonment nor to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in chapter 316 or by ordinance of any city or county.

(6) Nothing in this section shall be construed to alter the operation of any statute of this state authorizing a trial court, in its discretion, to impose a sentence of imprisonment for an indeterminate period within minimum and maximum limits as provided by law, except as provided in subsection (1).

(7) This section does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence.

(8)(a)1. “Prison releasee reoffender” means any defendant who commits, or attempts to commit:

- a. Treason;
- b. Murder;
- c. Manslaughter;
- d. Sexual battery;
- e. Carjacking;
- f. Home-invasion robbery;
- g. Robbery;
- h. Arson;
- i. Kidnapping;
- j. Aggravated assault;
- k. Aggravated battery;
- l. Aggravated stalking;
- m. Aircraft piracy;
- n. Unlawful throwing, placing, or discharging of a destructive device or bomb;
- o. Any felony that involves the use or threat of physical force or violence against an individual;

- p. Armed burglary;
- q. Burglary of an occupied structure or dwelling; or
- r. Any felony violation of s. 790.07, s. 800.04, s. 827.03, or s. 827.071;

within 3 years of being released from a state correctional facility operated by the Department of Corrections or a private vendor.

2. If the state attorney determines that a defendant is a prison releasee reoffender as defined in subparagraph 1., the state attorney may seek to have the court sentence the defendant as a prison releasee reoffender. Upon proof from the state attorney that establishes by a preponderance of the evidence that a defendant is a prison releasee reoffender as defined in this section, such defendant is not eligible for sentencing under the sentencing guidelines and must be sentenced as follows:

- a. For a felony punishable by life, by a term of imprisonment for life;
- b. For a felony of the first degree, by a term of imprisonment of 30 years;
- c. For a felony of the second degree, by a term of imprisonment of 15 years; and
- d. For a felony of the third degree, by a term of imprisonment of 5 years.

(b) A person sentenced under paragraph (a) shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release. Any person sentenced under paragraph (a) must serve 100 percent of the court-imposed sentence.

(c) Nothing in this subsection shall prevent a court from imposing a greater sentence of incarceration as authorized by law, pursuant to s. 775.084 or any other provision of law.

(d)1. It is the intent of the Legislature that offenders previously released from prison who meet the criteria in paragraph (a) be punished to the fullest extent of the law and as provided in this subsection, unless any of the following circumstances exist:

- a. The prosecuting attorney does not have sufficient evidence to prove the highest charge available;
- b. The testimony of a material witness cannot be obtained;
- c. The victim does not want the offender to receive the mandatory prison sentence and provides a written statement to that effect; or
- d. Other extenuating circumstances exist which preclude the just prosecution of the offender.

(9)(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 3. Subsection (6) is added to section 944.705, Florida Statutes, to read:

944.705 Release orientation program.—

(6)(a) The department shall notify every inmate, in no less than 18-point type in the inmate's release documents, that the inmate may be sentenced pursuant to s. 775.082(8) if the inmate commits any felony offense described in s. 775.082(8) within 3 years after the inmate's release. This notice must be prefaced by the word "WARNING" in boldfaced type.

(b) Nothing in this section precludes the sentencing of a person pursuant to s. 775.082(8), nor shall evidence that the department failed to provide this notice prohibit a person from being sentenced pursuant to s. 775.082(8). The state shall not be required to demonstrate that a person received any notice from the department in order for the court to impose a sentence pursuant to s. 775.082(8).

Section 4. Subsection (6) of section 947.141, Florida Statutes, is amended to read:

947.141 Violations of conditional release, control release, or conditional medical release.—

(6) 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, shall 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 5. Subsections (1) and (6) of section 948.06, Florida Statutes, are amended to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.—

(1) Whenever within the period of probation or community control there are reasonable grounds to believe that a probationer or offender in community control has violated his probation or community control in a material respect, any law enforcement officer who is aware of the probationary or community control status of the probationer or offender in community control or any parole or probation supervisor may arrest or request any county or municipal law enforcement officer to arrest such probationer or offender without warrant wherever found and forthwith return him to the court granting such probation or community control. Any committing magistrate may issue a warrant, upon the facts being made known to him by affidavit of one having knowledge of such facts, for the arrest of the probationer or offender, returnable forthwith before the court granting such probation or community control. Any parole or probation supervisor, any officer authorized to serve criminal process, or any peace officer of this state is authorized to serve and execute such warrant. The court, upon the probationer or offender being brought before it, shall advise him of such charge of violation and, if such charge is admitted to be true, may forthwith revoke, modify, or continue the probation or community control or place the probationer into a community control program. If probation or community control is revoked, the court shall adjudge the probationer or offender guilty of the offense charged and proven or admitted, unless he has previously been adjudged guilty, and impose any sentence which it might have originally imposed before placing the probationer on probation or the offender into community control. If such violation of probation or community control is not admitted by the probationer or offender, the court may commit him or release him with or without bail to await further hearing, or it may dismiss the charge of probation or community control violation. If such charge is not at that time admitted by the probationer or offender and if it is not dismissed, the court, as soon as may be practicable, shall give the probationer or offender an opportunity to be fully heard on his behalf in person or by counsel. After such hearing, the court may revoke, modify, or continue the probation or community control or place the probationer into community control. If such probation or community control is revoked, the court shall adjudge the probationer or offender guilty of the offense charged and proven or admitted, unless he has previously been adjudged guilty, and impose any sentence which it might have originally imposed before placing the probationer or offender on probation or into community control.

(6) Any provision of law to the contrary notwithstanding, whenever probation, community control, or control release, including the probationary, community control portion of a split sentence, is violated and the probation or community control is revoked, the offender, by reason of his misconduct, shall may be deemed to have forfeited all gain-time or commutation of time for good conduct, as provided by law, earned up to the date of his release on probation, community control, or control release. This subsection does not deprive the prisoner of his right to gain-time or commutation of time for good conduct, as provided by law, from the date on which he is returned to prison. However, if a prisoner is sentenced to incarceration following termination from a drug punishment program imposed as a condition of probation, the sentence may include incarceration without the possibility of gain-time or early release for the period of time remaining in his treatment program placement term.

Section 6. For the purpose of incorporating the amendment to section 948.06, Florida Statutes, in references thereto, subsection (9) and paragraph (b) of subsection (13) of section 948.01, Florida Statutes, 1996 Supplement, and section 958.14, Florida Statutes, are reenacted to read:

948.01 When court may place defendant on probation or into community control.—

(9) Procedures governing violations of community control shall be the same as those described in s. 948.06 with respect to probation.

(13) If it appears to the court upon a hearing that the defendant is a chronic substance abuser whose criminal conduct is a violation of chapter 893, the court may either adjudge the defendant guilty or stay and withhold the adjudication of guilt; and, in either case, it may stay and withhold the imposition of sentence and place the defendant on drug offender probation.

(b) Offenders placed on drug offender probation are subject to revocation of probation as provided in s. 948.06.

958.14 Violation of probation or community control program.—A violation or alleged violation of probation or the terms of a community control program shall subject the youthful offender to the provisions of s. 948.06(1). However, no youthful offender shall be committed to the custody of the department for a substantive violation for a period longer than the maximum sentence for the offense for which he was found guilty, with credit for time served while incarcerated, or for a technical or nonsubstantive violation for a period longer than 6 years or for a period longer than the maximum sentence for the offense for which he was found guilty, whichever is less, with credit for time served while incarcerated.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to criminal justice; creating the "Prison Releasee Reoffender Punishment Act"; amending s. 775.082, F.S.; defining "prison releasee reoffender"; providing that certain reoffenders are ineligible for sentencing under the sentencing guidelines under specified circumstances when the reoffender has been released from correctional custody and, within 3 years of being released, commits treason, murder, manslaughter, sexual battery, carjacking, home-invasion robbery, robbery, arson, kidnapping, aggravated assault, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing, or discharging of a destructive device or bomb, a felony involving the use or threat of physical force or violence against an individual, armed burglary, burglary of an occupied structure or dwelling, burglary when the person has two prior felony convictions, or a felony violation of s. 790.07, F.S., relating to having a weapon while engaged in a criminal offense, of s. 800.04, F.S., relating to lewd, lascivious, or indecent assault or act upon or in presence of child, of s. 827.03, F.S., relating to abuse, aggravated abuse, or neglect of child, or of s. 827.071, F.S., relating to sexual performance by a child; providing for such reoffender to be sentenced to specified mandatory minimum sentences; making such reoffender ineligible for parole, probation, or early release; providing legislative intent with respect to punishment in reoffender cases; amending s. 944.705, F.S., relating to the release orientation program; requiring notice to certain released offenders by the Department of Corrections with respect to the new minimum mandatory sentencing provisions; providing for inadmissibility of certain evidence regarding departmental failure to provide such notice; amending s. 947.141, F.S.; providing for mandatory forfeiture of previously granted early release credits under specified circumstances when conditional release, control release, or conditional medical release is revoked; amending s. 948.06, F.S.; permitting a law enforcement officer to arrest a probationer or offender in community control upon probable cause that the probationer or offender has materially violated probation or community control, under specified circumstances; providing for mandatory forfeiture of previously granted early release credits under specified circumstances when probation or community control is revoked; reenacting ss. 948.01(9) and (13)(b) and 958.14, F.S., to incorporate said amendment in references; providing an effective date.

WHEREAS, recent court decisions have mandated the early release of violent felony offenders, and

WHEREAS, the people of this state and the millions of people who visit our state deserve public safety and protection from violent felony offenders who have previously been sentenced to prison and who continue to prey on society by reoffending, and

WHEREAS, the Legislature finds that the best deterrent to prevent prison releasees from committing future crimes is to require that any releasee who commits new serious felonies must be sentenced to the maximum term of incarceration allowed by law, and must serve 100 percent of the court-imposed sentence, NOW, THEREFORE,

Pursuant to Rule 4.19, **CS for CS for HB 1371** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Myers, the rules were waived and the Senate reverted to—

CONSIDERATION OF BILLS ON THIRD READING

On motion by Senator Myers, the Senate resumed consideration of—

HB 1925—A bill to be entitled An act relating to regulation of health care practitioners; creating part II of chapter 455, F.S., to provide regulatory provisions applicable to the Department of Health that are separate from those applicable to the Department of Business and Professional Regulation; creating ss. 455.401, 455.402, 455.403, 455.404, 455.405, 455.406, 455.407, 455.408, 455.409, 455.411, 455.412, 455.414, 455.415, 455.416, 455.417, 455.418, 455.419, 455.421, 455.422, 455.424, 455.427, 455.428, 455.429, 455.431, 455.432, 455.433, 455.436, 455.438, 455.439, 455.441, 455.442, 455.443, 455.444, 455.445, 455.446, 455.447, 455.448, 455.449, 455.451, 455.452, 455.453, 455.457, 455.458, 455.461, 455.465, 455.466, 455.467, 455.468, and 455.469, F.S., to conform; providing intent; providing for a procedure for updating boards on major public health policy; providing for appointment of a task force to develop uniform procedures to standardize the validation of health care practitioner credentials; providing requirements with respect to examinations, including requirements for national, contracted, and shared examinations and translations of examinations; restricting board meetings to those determined to be in the public interest; providing for appointment of nonboard members to board committees under certain circumstances; requiring applicants for initial licensure to submit a full set of fingerprints; providing additional grounds for disciplinary action relating to keeping legible records, payments on federally or state guaranteed educational loans or service-conditional scholarships, providing proper identification to patients, and reporting of disciplinary actions of another jurisdiction; revising provisions relating to ownership and control of patient records; transferring s. 455.247, F.S., to conform; transferring and amending ss. 455.2055, 455.2141, 455.2142, 455.2173, 455.222, 455.2224, 455.241, 455.2415, 455.2416, 455.244, 455.2455, and 455.2456, F.S., to conform; amending ss. 455.01, 455.017, 455.10, 455.203, 455.205, 455.207, 455.208, 455.209, 455.211, 455.213, 455.214, 455.217, 455.2175, 455.218, 455.219, 455.221, 455.2228, 455.225, 455.227, 455.2273, 455.2275, 455.228, 455.2285, 455.229, 455.232, 455.26, 455.261, and 455.273, F.S., to conform; transferring and amending s. 455.2205, F.S., relating to the Health Care Trust Fund, to conform; amending ss. 215.20, 391.208, 391.217, 400.5575, and 408.20, F.S.; correcting cross references, to conform; transferring and amending ss. 455.24, 455.242, 455.243, and 455.245, F.S., relating to veterinary medical practice, to conform; amending s. 455.25, F.S., relating to disclosure of financial interest; requiring physicians and other health care providers to disclose their financial interest in certain entities; eliminating entity disclosure of financial interest; repealing s. 455.220, F.S., relating to fees required by the boards to cover the costs of regulation, to conform; repealing s. 455.2226, F.S., relating to instruction on human immunodeficiency virus and acquired immune deficiency syndrome; creating part I of the remaining provisions of chapter 455, F.S., as amended, to conform; amending ss. 120.80, 212.08, 215.37, 240.215, 310.102, 337.162, 381.0039, 383.32, 395.0193, 395.0197, 395.3025, 400.491, 408.061, 408.704, 415.1055, 415.5055, 415.51, 440.13, 457.103, 458.307, 458.3115, 458.331, 458.343, 458.347, 459.004, 459.015, 459.019, 459.022, 460.404, 460.4061, 461.004, 461.013, 463.003, 463.016, 464.004, 465.004, 465.006, 466.004, 466.007, 466.018, 466.022, 466.028, 468.1135, 468.1145, 468.1185, 468.1295, 468.1665, 468.1755, 468.1756, 468.205, 468.219, 468.364, 468.365, 468.402, 468.4315, 468.453, 468.456, 468.4571, 468.506, 468.507, 468.513, 468.523, 468.526, 468.532, 468.535, 468.703, 468.707, 468.711, 468.719, 469.009, 470.003, 470.036, 471.008, 471.015, 471.033, 472.015, 473.3035, 473.308, 473.311, 473.323, 474.204, 474.214, 474.2145, 475.021, 475.181, 475.25, 475.624, 476.204, 477.029, 480.044, 481.2055, 481.213, 481.225, 481.2251, 481.306, 481.311, 481.325, 483.805, 483.807, 483.901,

484.014, 484.042, 484.056, 486.023, 486.115, 486.172, 489.129, 489.533, 490.004, 490.009, 490.015, 491.004, 491.009, 491.015, 492.103, 492.113, 627.668, 627.912, 636.039, 641.27, 641.55, 766.106, 766.305, 766.308, 766.314, and 937.031, F.S.; correcting cross references and terminology, to conform; amending ss. 20.43, 381.81, 400.211, 402.48, 457.102, 458.305, 459.003, 460.403, 461.003, 462.01, 463.002, 465.003, 466.003, 467.003, 468.1125, 468.1655, 468.352, 468.518, 468.701, 478.42, 480.033, 483.803, 484.002, 484.003, 484.041, 484.042, 484.051, 486.021, 490.003, and 491.003, F.S.; correcting cross references and definitions, to conform; providing an effective date.

—which was previously considered and amended this day. Pending **Amendment 4** by Senator Campbell was adopted by two-thirds vote.

Senator Campbell moved the following amendments to **Engrossed Senate Amendment 1** which were adopted by two-thirds vote:

Amendment 5 (with title amendment)—On page 203, between lines 8 and 9, insert:

Section 132. Paragraph (x) of subsection (1) of section 459.015, Florida Statutes, 1996 Supplement, is amended to read:

459.015 Grounds for disciplinary action by the board.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(x) Gross or repeated malpractice or the failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar osteopathic physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. As used in this paragraph, “repeated malpractice” includes, but is not limited to, three or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of ~~\$25,000~~ ~~\$40,000~~ each to the claimant in a judgment or settlement and which incidents involved negligent conduct by the osteopathic physician. As used in this paragraph, “gross malpractice” or “the failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar osteopathic physician as being acceptable under similar conditions and circumstances” shall not be construed so as to require more than one instance, event, or act. Nothing in this paragraph shall be construed to require that an osteopathic physician be incompetent to practice osteopathic medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross malpractice,” “repeated malpractice,” or “failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized as being acceptable under similar conditions and circumstances,” or any combination thereof, and any publication by the board shall so specify.

(Renumber subsequent section.)

And the title is amended as follows:

On page 211, line 18, after the semicolon (;) insert: amending s. 459.015, F.S.; increasing the amount of an indemnity paid for a claim for medical malpractice;

Amendment 6 (with title amendment)—On page 203, between lines 8 and 9, insert:

Section 132. Paragraph (f) of subsection (5) of section 459.0085, Florida Statutes, 1996 Supplement, is amended to read:

459.0085 Financial responsibility.—

(5) The requirements of subsections (1), (2), and (3) shall not apply to:

(f) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee has held an active license to practice in this state or another state or some combination thereof for more than 15 years.

2. The licensee has either retired from the practice of osteopathic medicine or maintains a part-time practice of osteopathic medicine of no more than 1,000 patient contact hours per year.

3. The licensee has had no more than two claims for medical malpractice resulting in an indemnity exceeding ~~\$25,000~~ ~~\$40,000~~ within the previous 5-year period.

4. The licensee has not been convicted of, or pled guilty or nolo contendere to, any criminal violation specified in this chapter or the practice act of any other state.

5. The licensee has not been subject within the last 10 years of practice to license revocation or suspension for any period of time, probation for a period of 3 years or longer, or a fine of \$500 or more for a violation of this chapter or the medical practice act of another jurisdiction. The regulatory agency's acceptance of an osteopathic physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the osteopathic physician's license, shall be construed as action against the physician's license for the purposes of this paragraph.

6. The licensee has submitted a form supplying necessary information as required by the department and an affidavit affirming compliance with the provisions of this paragraph.

7. The licensee shall submit biennially to the department a certification stating compliance with the provisions of this paragraph. The licensee shall, upon request, demonstrate to the department information verifying compliance with this paragraph.

A licensee who meets the requirements of this paragraph shall be required either to post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or to provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, osteopathic physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. However, certain part-time osteopathic physicians who meet state requirements are exempt from the financial responsibility law. YOUR OSTEOPATHIC PHYSICIAN MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant to Florida law.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 211, line 18, after the semicolon (;) insert: amending s. 459.0085, F.S.; increasing financial responsibility threshold;

Amendment 7 (with title amendment)—On page 203, between lines 8 and 9, insert:

Section 132. Paragraph (x) of subsection (1) of section 459.015, Florida Statutes, 1996 Supplement, is amended to read:

459.015 Grounds for disciplinary action by the board.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(x) Gross or repeated malpractice or the failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar osteopathic physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. As used in this paragraph, “repeated malpractice” includes, but is not limited to, three or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of ~~\$25,000~~ ~~\$40,000~~ each to the claimant in a judgment or settlement and which incidents involved negligent conduct by the osteopathic physician. As used in this paragraph, “gross malpractice” or “the failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar osteopathic physician as being acceptable under similar conditions and circumstances” shall not be construed so as to require more than one instance, event, or act. Nothing in this paragraph shall be construed to require that an osteopathic physician be incompetent to practice osteopathic medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the

licensee was found to have committed "gross malpractice," "repeated malpractice," or "failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized as being acceptable under similar conditions and circumstances," or any combination thereof, and any publication by the board shall so specify.

(Renumber subsequent section.)

And the title is amended as follows:

On page 211, line 18, after the semicolon (;) insert: amending s. 459.015, F.S.; increasing the amount of an indemnity paid for a claim for medical malpractice;

Amendment 8 (with title amendment)—On page 203, between lines 8 and 9, insert:

Section 132. Paragraph (f) of subsection (5) of section 459.0085, Florida Statutes, 1996 Supplement, is amended to read:

459.0085 Financial responsibility.—

(5) The requirements of subsections (1), (2), and (3) shall not apply to:

(f) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee has held an active license to practice in this state or another state or some combination thereof for more than 15 years.

2. The licensee has either retired from the practice of osteopathic medicine or maintains a part-time practice of osteopathic medicine of no more than 1,000 patient contact hours per year.

3. The licensee has had no more than two claims for medical malpractice resulting in an indemnity exceeding \$25,000 \$40,000 within the previous 5-year period.

4. The licensee has not been convicted of, or pled guilty or nolo contendere to, any criminal violation specified in this chapter or the practice act of any other state.

5. The licensee has not been subject within the last 10 years of practice to license revocation or suspension for any period of time, probation for a period of 3 years or longer, or a fine of \$500 or more for a violation of this chapter or the medical practice act of another jurisdiction. The regulatory agency's acceptance of an osteopathic physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the osteopathic physician's license, shall be construed as action against the physician's license for the purposes of this paragraph.

6. The licensee has submitted a form supplying necessary information as required by the department and an affidavit affirming compliance with the provisions of this paragraph.

7. The licensee shall submit biennially to the department a certification stating compliance with the provisions of this paragraph. The licensee shall, upon request, demonstrate to the department information verifying compliance with this paragraph.

A licensee who meets the requirements of this paragraph shall be required either to post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or to provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, osteopathic physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. However, certain part-time osteopathic physicians who meet state requirements are exempt from the financial responsibility law. YOUR OSTEOPATHIC PHYSICIAN MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant to Florida law.

(Renumber subsequent section.)

And the title is amended as follows:

On page 211, line 18, after the semicolon (;) insert: amending s. 459.0085, F.S.; increasing financial responsibility threshold;

On motion by Senator Myers, **HB 1925** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Holzendorf	Myers
Bankhead	Dantzler	Horne	Ostalkiewicz
Bronson	Diaz-Balart	Jenne	Rossin
Brown-Waite	Dudley	Jones	Scott
Burt	Dyer	Klein	Silver
Campbell	Forman	Kurth	Sullivan
Casas	Grant	Latvala	Thomas
Childers	Gutman	Lee	Turner
Clary	Hargrett	McKay	Williams
Cowin	Harris	Meadows	

Nays—None

SPECIAL ORDER CALENDAR, continued

Consideration of **CS for SB's 1428, 1388, 1562 and 1252** was deferred.

On motion by Senator Latvala—

CS for CS for SB 1074—A bill to be entitled An act relating to water protection; amending s. 403.8532, F.S.; establishing drinking water and source water financial and technical assistance programs and providing for use of funds; providing for an Intended Use Plan; amending s. 403.860, F.S.; establishing an administrative fine for certain violations; creating s. 403.8615, F.S.; directing the Department of Environmental Protection to establish requirements for water systems commencing operation after October 1, 1999; creating ss. 403.865-403.876, F.S.; defining certain terms; requiring operators of water or wastewater treatment plants to have an operator's license issued by the Department of Environmental Protection; allowing a utility to have more stringent requirements; authorizing the department to adopt rules; authorizing the secretary of the department to appoint the Technical Advisory Council for Water and Domestic Wastewater Operator Certification; authorizing the department to establish fees for applications, examinations, licensing and renewal, and record keeping; establishing grounds for disciplinary action; providing for a type two transfer of certain responsibilities of the Department of Professional Regulation to the Department of Environmental Protection; providing for a transfer of positions and supporting budgets; providing a grandfather clause for certified operators; amending s. 163.01, F.S.; providing for the development of facilities that serve members of interlocal agreements; amending s. 403.087, F.S.; increasing the term for which certain permits may be issued by the Department of Environmental Protection; providing for renewal of operation permits for domestic wastewater treatment facilities for up to a specified term under certain circumstances at the same fee; providing an exception; requiring the department to keep certain records; repealing ss. 468.540, 468.541, 468.542, 468.543, 468.544, 468.545, 468.546, 468.547, 468.548, 468.549, 468.550, 468.551, and 468.552, F.S., relating to water and wastewater operator certification by the Department of Business and Professional Regulation; amending s. 403.0872, F.S.; clarifying the air pollution fee deadline; amending s. 403.1835, F.S.; authorizing the Department of Environmental Protection to make grants to financially disadvantaged communities from certain loan repayment funds; providing for the deposit of funds into the Grants and Donations Trust Fund; providing an appropriation; amending s. 367.022, F.S.; providing exceptions from regulation as a utility; providing an effective date.

—was read the second time by title.

An amendment was considered to conform **CS for CS for SB 1074** to **HB 1323**.

Pending further consideration of **CS for CS for SB 1074** as amended, on motion by Senator Latvala, by two-thirds vote **HB 1323** was withdrawn from the Committees on Natural Resources; and Ways and Means.

On motions by Senator Latvala, by two-thirds vote—

HB 1323—A bill to be entitled An act relating to water protection; amending s. 403.8532, F.S.; authorizing the Department of Environmental Protection to make loans to certain public water systems; authorizing use of certain federal Safe Drinking Water Act funds for specified purposes; providing loan criteria, requirements, and limitations; providing for department rules; requiring an annual report; providing for audits; providing for loan service fees; providing for disposition of funds; providing for default; providing penalties for delinquent payments or noncompliance with loan terms and conditions; amending s. 403.860, F.S.; authorizing administrative penalties for failure of a public water system to comply with the Florida Safe Drinking Water Act; providing for rules and procedures; creating s. 403.8615, F.S.; requiring certain new water systems to demonstrate specified technical, managerial, and financial capabilities; creating s. 403.865, F.S.; providing legislative findings and intent relating to operation of water and wastewater treatment facilities by qualified personnel; creating s. 403.866, F.S.; providing definitions; creating s. 403.867, F.S.; requiring such operators to be licensed by the department; creating s. 403.868, F.S.; authorizing a utility to have more stringent requirements; creating s. 403.869, F.S.; authorizing department rules; creating s. 403.87, F.S.; authorizing appointment of a technical advisory council for water and domestic wastewater operator certification; creating s. 403.871, F.S.; providing for application and examination, reexamination, licensure, renewal, and recordmaking and record-keeping fees; providing for disposition thereof; creating s. 403.872, F.S.; specifying requirements for licensure; creating s. 403.873, F.S.; providing for biennial license renewal; creating s. 403.874, F.S.; providing for inactive status and reactivation of inactive licenses; creating s. 403.875, F.S.; specifying prohibited acts; providing a penalty; creating s. 403.876, F.S.; requiring the department to establish grounds for disciplinary actions; providing for an administrative fine; providing for transfer of powers and duties relating to regulation of operators of water treatment plants and domestic wastewater treatment plants from the Department of Business and Professional Regulation to the Department of Environmental Protection; providing for continuation of certain rules; providing a grandfather provision for operators certified prior to the transfer; amending s. 403.087, F.S.; increasing the maximum term for issuance of permits for stationary water pollution sources; specifying conditions for renewing operation permits for domestic wastewater treatment facilities for an extended term at the same fee; requiring the department to keep certain records; amending s. 403.0871, F.S.; correcting cross references; amending s. 403.0872; clarifying air pollution fee deadline; repealing ss. 468.540, 468.541, 468.542, 468.543, 468.544, 468.545, 468.546, 468.547, 468.548, 468.549, 468.550, 468.551, and 468.552, F.S., relating to water and wastewater treatment plant operator certification by the Department of Business and Professional Regulation; providing an appropriation; amending s. 367.021, F.S.; defining “environmental compliance costs; amending s. 367.022, F.S.; providing regulatory exemptions for nonpotable irrigation water, under certain circumstances; amending s. 367.081, F.S.; providing for recovery of environmental compliance costs; amending s. 367.171, F.S.; providing application of the act; amending s. 367.022; deregulating bulk supplies of water for sale for resale; providing for a study of ozonation and other alternative processes for disinfecting water; requiring a report; amending s. 193.625, F.S. to allow high-water recharge assessments when lands will be used primarily for bona fide high-water recharge purposes for a period of at least 5 years; amending s. 403.1835, F.S.; expanding the sewage treatment facilities revolving loan program to provide loans to local governmental agencies for construction of stormwater management systems; defining “stormwater management system”; providing additional responsibilities of local governments under the program; providing priority for certain stormwater management system projects; providing for funding; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1074** as amended and by two-thirds vote read the second time by title.

Senator Latvala moved the following amendment:

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

Section 1. Section 403.8532, Florida Statutes, is amended to read:
403.8532 Drinking water state revolving loan fund; use; rules.—

(1) *The purpose of this section is to assist in implementing the legislative declarations of public policy contained in ss. 403.021 and 403.851 by*

establishing infrastructure financing, technical assistance, and source water protection programs to assist public drinking water systems in achieving and maintaining compliance with the Florida Safe Drinking Water Act and the federal Safe Drinking Water Act, as amended, and to conserve and protect the quality of waters of the state.

(2) *For purposes of this section, the term:*

(a) *“Financially disadvantaged community” means the service area of a project to be served by a public water system that meets criteria established by department rule and in accordance with federal guidance.*

(b) *“Local governmental agency” means any municipality, county, district, or authority, or any agency thereof, or a combination of two or more of the foregoing acting jointly in connection with a project, having jurisdiction over a public water system.*

(c) *“Public water system” means all facilities, including land, necessary for the treatment and distribution of water for human consumption and includes public water systems as defined in s. 403.852 and as otherwise defined in the federal Safe Drinking Water Act, as amended. Such systems may be publicly owned, privately owned, investor-owned, or cooperatively held.*

(d) *“Small public water system” means a public water system which regularly serves fewer than 10,000 people.*

(3) *The department is authorized to make loans to community water systems, nonprofit noncommunity water systems, and nonprofit nontransient noncommunity water systems to assist them in planning, designing, and constructing public water systems, unless such public water systems are for-profit privately owned or investor-owned systems that regularly serve 1,500 service connections or more within a single certified or franchised area. However, a for-profit privately owned or investor-owned public water system that regularly serves 1,500 service connections or more within a single certified or franchised area may qualify for a loan only if the proposed project will result in the consolidation of two or more public water systems. The department is authorized to provide loan guarantees, to purchase loan insurance, and to refinance local debt through the issue of new loans for projects approved by the department. Public water systems are authorized to borrow funds made available pursuant to this section and may pledge any revenues or other adequate security available to them to repay any funds borrowed. The department shall administer loans so that amounts credited to the Drinking Water Revolving Loan Trust Fund in any fiscal year are reserved for the following purposes:*

(a) *At least 15 percent to qualifying small public water systems.*

(b) *Up to 15 percent to qualifying financially disadvantaged communities.*

(c) *However, if an insufficient number of the projects for which funds are reserved under this paragraph have been submitted to the department at the time the funding priority list authorized under this section is adopted, the reservation of these funds shall no longer apply. The department may award the unreserved funds as otherwise provided in this section.*

(4) *The department is authorized, subject to legislative appropriation authority and authorization of positions, to use funds from the annual capitalization grant for activities authorized under the federal Safe Drinking Water Act, as amended, such as:*

(a) *Program administration.*

(b) *Technical assistance.*

(c) *Source water protection program development and implementation, including wellhead and aquifer protection programs, programs to alleviate water quality and water supply problems associated with salt-water intrusion, programs to identify, monitor and assess source waters, and contaminant source inventories.*

(d) *Capacity development and financial assessment program development and administration.*

(e) *The costs of establishing and administering an operator certification program for drinking water treatment plant operators, to the extent such costs cannot be paid for from fees.*

This subsection does not limit the department's ability to apply for and receive other funds made available for specific purposes under the federal Safe Drinking Water Act, as amended.

(5) *The term of loans made pursuant to this section shall not exceed 30 years. The interest rate on such loans shall be no greater than that paid on the last bonds sold pursuant to s. 14, Art. VII of the State Constitution.*

(6)(a) *The department may provide financial assistance to financially disadvantaged communities for the purpose of planning, designing, and constructing public water systems. Such assistance may include the forgiveness of loan principal.*

(b) *The department shall establish by rule the criteria for determining whether a public water system serves a financially disadvantaged community. Such criteria shall be based on the median household income of the service population or other reliably documented measures of disadvantaged status.*

(7) *To the extent not allowed by federal law, the department shall not provide financial assistance for projects primarily intended to serve future growth.*

(8) *In order to ensure that public moneys are managed in an equitable, prudent, and cost-effective manner, the total amount of money loaned to any public water system during a fiscal year shall be no more than 25 percent of the total funds available for making loans during that year. The minimum amount of a loan shall be \$75,000.*

(9) *The department is authorized to make rules necessary to carry out the purposes of this section and the federal Safe Drinking Water Act, as amended. Such rules shall:*

(a) *Set forth a priority system for loans based on public health considerations, compliance with state and federal requirements relating to public drinking water systems, and affordability. The priority system shall give special consideration to the following:*

1. *Projects that provide for the development of alternative drinking water supply projects and management techniques in areas where existing source waters are limited or threatened by saltwater intrusion, excessive drawdowns, contamination, or other problems;*

2. *Projects that provide for a dependable, sustainable supply of drinking water and that are not otherwise financially feasible; and*

3. *Projects that contribute to the sustainability of regional water sources.*

(b) *Establish the requirements for the award and repayment of financial assistance.*

(c) *Require adequate security to ensure that each loan recipient can meet its loan repayment requirements.*

(d) *Require each project receiving financial assistance to be cost-effective, environmentally sound, implementable, and self-supporting.*

(e) *Implement other provisions of the federal Safe Drinking Water Act, as amended.*

(10) *The department shall prepare a report at the end of each fiscal year, detailing the financial assistance provided under this section, service fees collected, interest earned, and loans outstanding.*

(11) *Prior to approval of a loan, the local government or public water system shall, at a minimum:*

(a) *Provide a repayment schedule.*

(b) *Submit evidence of the permissibility or implementability of the project proposed for financial assistance.*

(c) *Submit plans and specifications, biddable contract documents, or other documentation of appropriate procurement of goods and services.*

(d) *Provide assurance that records will be kept using accepted government accounting standards and that the department and the Auditor*

General, or their agents will have access to all records pertaining to the loan.

(e) *Provide assurance that the public water system will be properly operated and maintained in order to achieve or maintain compliance with the requirements of the Florida Safe Drinking Water Act and the federal Safe Drinking Water Act, as amended.*

(f) *Document that the public water system will be self-supporting.*

(12) *The department may conduct an audit of the loan project upon completion, or may require that a separate project audit, prepared by an independent certified public accountant, be submitted.*

(13) *The department may require reasonable service fees on loans made to public water systems to ensure that the Drinking Water Revolving Loan Trust Fund will be operated in perpetuity and to implement the purposes authorized under this section. Service fees shall not be less than 2 percent nor greater than 4 percent of the loan amount exclusive of the service fee. Service fee revenues shall be deposited into the department's Grants and Donations Trust Fund. The fee revenues, and interest earnings thereon, shall be used exclusively to carry out the purposes of this section.*

(14) *All moneys available for financial assistance under this section shall be deposited in the Drinking Water Revolving Loan Trust Fund exclusively to carry out the purposes of this section. Any funds therein which are not needed on an immediate basis for financial assistance shall be invested pursuant to s. 215.49. State revolving fund capitalization grants awarded by the Federal Government, state matching funds, and investment earnings thereon shall be deposited into the fund. The principal and interest of all loans repaid and investment earnings thereon shall be deposited into the fund.*

(15)(a) *If a local governmental agency defaults under the terms of its loan agreement, the department shall so certify to the Comptroller, who shall forward the amount delinquent to the department from any unobligated funds due to the local governmental agency under any revenue-sharing or tax-sharing fund established by the state, except as otherwise provided by the State Constitution. Certification of delinquency shall not limit the department from pursuing other remedies available for default on a loan, including accelerating loan repayments, eliminating all or part of the interest rate subsidy on the loan, and court appointment of a receiver to manage the public water system.*

(b) *If a public water system owned by a person other than a local governmental agency defaults under the terms of its loan agreement, the department may take all actions available under law to remedy the default.*

(c) *The department may impose a penalty for delinquent loan payments in the amount of 6 percent of the amount due, in addition to charging the cost to handle and process the debt. Penalty interest shall accrue on any amount due and payable beginning on the 30th day following the date upon which payment is due.*

(16) *The department is authorized to terminate or rescind a financial assistance agreement when the recipient fails to comply with the terms and conditions of the agreement.*

~~(1) If federal funds become available for a drinking water state revolving loan fund, the Department of Environmental Protection may use the funds to make grants and loans to the owners of public water systems, as defined in s. 403.852(2), and as otherwise authorized by the law making the funds available. The department may adopt rules necessary to satisfy requirements to receive these federal funds and to carry out the provisions of this subsection. The rules shall include, but not be limited to, a priority system based on public health considerations, system type, and population served; requirements for proper system operation and maintenance; and, where applicable, consideration of ability to repay loans.~~

~~(2) The department shall, by January 1, 1995, report to the Legislature the status of any drinking water state revolving fund program authorized by federal law and shall include in the report recommendations as to appropriate and necessary statutory changes to govern its implementation.~~

Section 2. *Intended Use Plan.* —

(1) *The Florida Legislature recognizes that over 80 percent of the state's population lives in coastal areas and is dependent on groundwater sources for drinking water supplies. Further, the Legislature recognizes that saltwater intrusion is an increased threat to healthful and safe drinking water supplies.*

(2) *The Intended Use Plan required of the department under the federal Safe Drinking Water Act, as amended, shall provide, in general, to the maximum extent practicable, that priority for the use of funds be given to projects that:*

(a) *Address the most serious risk to human health, especially projects that would develop alternative water supply in areas with saltwater intrusion problems;*

(b) *Are necessary to ensure compliance with the requirements of the federal Safe Drinking Water Act, as amended, including requirements for filtration; and*

(c) *Assist systems most in need on a per-household basis according to affordability criteria established by the Department of Environmental Protection by rule.*

Section 3. Subsection (6) of section 403.860, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to said section to read:

403.860 Penalties and remedies.—

(6) *The department is authorized to assess administrative penalties for failure to comply with the requirements of the Florida Safe Drinking Water Act.*

(a)1. *Prior to the assessment of an administrative penalty, the department shall provide the public water system a reasonable amount of time to complete the corrective action necessary to bring the system back into compliance.*

(b)1. *At the time of assessment of the administrative penalty, the department shall give the public water system notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective, unless an administrative hearing is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69.*

2. *The department shall adopt rules to implement the provisions of this subsection. The rules shall establish specific procedures for implementing the penalties and shall identify assessment amounts. The rules shall authorize the application of adjustment factors for the purpose of increasing or decreasing the total amount assessed subsequent to initial assessment. Such factors may include the lack or degree of good faith to comply with the requirements, the lack or degree of willfulness or negligence on the part of the owner, the compliance history of the public water system, the economic benefit derived by the failure to comply with the requirements, and the ability to pay.*

(b) *The amount of the penalties assessed shall be as follows:*

1. *In the case of a public water system serving a population of more than 10,000, the penalty shall be not less than \$1,000 per day per violation.*

2. *In the case of any other public water system, the penalty shall be adequate to ensure compliance.*

However, the total amount of the penalty assessed on any public water system may not exceed \$10,000 per violation.

Section 4. Section 403.8615, Florida Statutes, is created to read:

403.8615 Determination of capability and capacity development.—

(1) *The department shall require all new community water systems and new nontransient, noncommunity water systems seeking to commence operations after October 1, 1999, to demonstrate the technical, managerial, and financial capabilities to comply with national primary drinking water regulations as required by the federal Safe Drinking*

Water Act, as amended. The department shall establish by rule, consistent with any federal guidance on capacity development, the criteria for determining technical, managerial, and financial capabilities. At a minimum, such water systems must:

(a) *Employ or contract for the services of a certified operator, unless the department has waived this requirement pursuant to s. 403.854(5).*

(b) *Demonstrate the capabilities to conduct required monitoring and reporting programs and maintain appropriate records of such monitoring.*

(c) *Demonstrate financial soundness through the posting of a bond, creation of a reserve, documentation of an unreserved revenue source, or other appropriate means established by department rule.*

(2) *If the department determines that such a water system can not demonstrate technical, managerial, or financial capability, a permit may not be issued for that system pursuant to s. 403.861(7) until the water system has been determined to have the required capabilities.*

Section 5. Section 403.865, Florida Statutes, is created to read:

403.865 Purpose.—*The Legislature finds that the threat to the public health and the environment from the operation of water and wastewater treatment plants mandates that qualified personnel operate these facilities. It is the legislative intent that any person who performs the duties of an operator and who falls below minimum competency or who otherwise presents a danger to the public be prohibited from operating a plant or system in this state.*

Section 6. Section 403.866, Florida Statutes, is created to read:

403.866 Definitions.—*As used in ss. 403.865-403.876, the term:*

(1) *"Domestic wastewater collection system" means pipelines or conduits, pumping stations, and force mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal.*

(2) *"Domestic wastewater treatment plant" means any plant or other works used for the purpose of treating, stabilizing, or holding domestic wastes.*

(3) *"Operator" means any person, including the owner, who is in onsite charge of the actual operation, supervision, and maintenance of a water treatment plant or domestic wastewater treatment plant and includes the person in onsite charge of a shift or period of operation during any part of the day.*

(4) *"Public water system" has the same meaning as it has in s. 403.852.*

(5) *"Water distribution system" means those components of a public water system used in conveying water for human consumption from the water plant to the consumer's property, including pipelines, conduits, pumping stations, and all other structures, devices, appurtenances, and facilities used specifically for such purpose.*

(6) *"Water treatment plant" means those components of a public water system used in collection, treatment, and storage of water for human consumption, whether or not such components are under the control of the operator of such system.*

Section 7. Section 403.867, Florida Statutes, is created to read:

403.867 License required.—*A person may not perform the duties of an operator of a water treatment plant or a domestic wastewater treatment plant unless he or she holds a current operator's license issued by the department.*

Section 8. Section 403.868, Florida Statutes, is created to read:

403.868 Requirements by a utility.—*A utility may have more stringent requirements than set by law, including certification requirements for water distribution systems and domestic wastewater collection systems operations, except that a utility may not require a licensed contractor, as defined in s. 489.105(3) to have any additional license for work in water distribution systems or domestic wastewater collection systems.*

Section 9. Section 403.869, Florida Statutes, is created to read:

403.869 Authority to adopt rules.—The department may adopt rules necessary to carry out the provisions of ss. 403.865-403.876.

Section 10. Section 403.87, Florida Statutes, is created to read:

403.87 Technical advisory council for water and domestic wastewater operator certification.—Within 90 days of the effective date of this act, the secretary of the department shall appoint a technical advisory council as necessary for the purposes of ss. 403.865-403.876. The technical advisory council shall meet upon the request of the chair, upon request of a majority of its members, or upon request of the secretary. Members shall provide for their own expenses. The council shall consist of not less than five persons who, collectively, are expert in domestic wastewater and drinking water treatment, facilities operation, public health and environmental protection, including at least one licensed wastewater treatment plant operator and one licensed water treatment plant operator.

Section 11. Section 403.871, Florida Statutes, is created to read:

403.871 Fees.—The department shall, by rule, establish fees to be paid for application and examination, reexamination, licensing and renewal, renewal of an inactive license, reactivation of an inactive license, recordmaking, and recordkeeping. The department shall establish fees adequate to administer and implement ss. 403.865-403.876.

(1) *The application fee may not exceed \$100 and is not refundable.*

(2) *The renewal fee may not exceed \$100 and is not refundable.*

(3) *All fees collected under this section must be deposited into the Water Quality Assurance Trust Fund. The fees shall be used exclusively to implement the provisions of ss. 403.865-403.876.*

Section 12. Section 403.872, Florida Statutes, is created to read:

403.872 Requirements for licensure.—

(1) *Any person desiring to be licensed as a water treatment plant operator or a domestic wastewater treatment plant operator must apply to the department to take the licensure examination.*

(2) *The department shall examine the qualifications of any applicant who meets the criteria established by the department for licensure, submits a completed application, and remits the required fee.*

(3) *The department shall license as an operator any applicant who has passed the examination under this section.*

(4) *The department shall establish, by rule, the criteria for licensure, including, but not limited to, a requirement of a high school diploma or its equivalent, a training course approved by the department, and onsite operational experience.*

(5) *The department may also include a requirement that an operator must not be the subject of a disciplinary or enforcement action in another state at the time of application for licensure in this state.*

Section 13. Section 403.873, Florida Statutes, is created to read:

403.873 Renewal of license.—

(1) *The department shall renew a license upon receipt of the renewal application and fee and in accordance with the other provisions of ss. 403.865-403.876.*

(2) *The department shall adopt rules establishing a procedure for the biennial renewal of licenses.*

Section 14. Section 403.874, Florida Statutes, is created to read:

403.874 Inactive status.—

(1) *The department shall reactivate an inactive license upon receipt of the reactivation application and fee.*

(2) *The department shall adopt rules relating to licenses that have become inactive and for the reactivation of inactive licenses.*

Section 15. Section 403.875, Florida Statutes, is created to read:

403.875 Prohibitions; penalties.—

(1) *A person may not:*

(a) *Perform the duties of an operator of a water treatment plant or domestic wastewater treatment plant unless he or she is licensed under ss. 403.865-403.876.*

(b) *Use the name or title “water treatment plant operator” or “domestic wastewater treatment plant operator” or any other words, letters, abbreviations, or insignia indicating or implying that he or she is an operator, or otherwise holds himself or herself out as an operator, unless the person is the holder of a valid license issued under ss. 403.865-403.876.*

(c) *Present as his or her own the license of another.*

(d) *Knowingly give false or forged evidence to the department.*

(e) *Use or attempt to use a license that has been suspended, revoked, or placed on inactive or delinquent status.*

(f) *Employ unlicensed persons to perform the duties of an operator of a water treatment or domestic wastewater treatment plant.*

(g) *Conceal information relative to any violation of ss. 403.865-403.876.*

(2) *Any person who violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

Section 16. Section 403.876, Florida Statutes, is created to read:

403.876 Grounds for disciplinary action.—

(1) *The department shall establish, by rule, the grounds for taking disciplinary action, including suspending or revoking a valid license, placing a licensee on probation, refusing to issue a license, refusing to renew a license, or refusing to reactivate a license, and the imposition of an administrative fine, not to exceed \$1,000 per count or offense. The fines collected under this section shall be deposited into the Water Quality Assurance Trust Fund.*

(2) *The department shall conduct disciplinary proceedings in accordance with chapter 120.*

(3) *The department shall reissue the license of a disciplined operator when that operator has complied with all terms and conditions of the department’s final order.*

Section 17. *All powers, duties and functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Department of Business and Professional Regulation related to the classification and regulation of operators of water treatment plants and domestic wastewater treatment plants are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Department of Business and Professional Regulation to the Department of Environmental Protection. The Department of Business and Professional Regulation shall transfer to the Department of Environmental Protection six positions, along with sufficient supporting budget, as determined by the Department of Environmental Protection. The rules of the Department of Business and Professional Regulation that regulate plant operators remain in effect until the Department of Environmental Protection has adopted rules to supersede those of the Department of Professional and Business Regulation.*

Section 18. *Operators certified by the Department of Professional and Business Regulation as of the effective date of this act shall be deemed to be licensed by the Department of Environmental Protection until the expiration of the term of their certification.*

Section 19. Paragraph (g) is added to subsection (7) of section 163.01, Florida Statutes, 1996 Supplement, to read:

163.01 *Florida Interlocal Cooperation Act of 1969.—*

(7)

(g)1. Notwithstanding any other provisions of this section, any separate legal entity created under this section, the membership of which is limited to municipalities and counties of the state, may acquire, own, construct, improve, operate, and manage public facilities relating to a governmental function or purpose, including, but not limited to, wastewater facilities, water or alternative water supply facilities, and water reuse facilities, which may serve populations within or outside of the members of the entity. Notwithstanding s. 367.171(7), any separate legal entity created under this paragraph is not subject to commission jurisdiction and may not provide utility services within the service area of an existing utility system unless it has received the consent of the utility. The entity may finance or refinance the acquisition, construction, expansion, and improvement of the public facility through the issuance of its bonds, notes, or other obligations under this section. The entity has all the powers provided by the interlocal agreement under which it is created or which are necessary to own, operate, or manage the public facility, including, without limitation, the power to establish rates, charges, and fees for products or services provided by it, the power to levy special assessments, the power to sell all or a portion of its facility, and the power to contract with a public or private entity to manage and operate its facilities or to provide or receive services or products. Except as may be limited by the interlocal agreement under which the entity is created, all of the privileges, benefits, powers, and terms of s. 125.01, relating to counties, and s. 166.021, relating to municipalities, are fully applicable to the entity. However, neither the entity nor any of its members on behalf of the entity may exercise the power of eminent domain over the facilities or property of any existing water or wastewater plant utility system, nor may the entity acquire title to any water or wastewater plant utility facilities or property which was acquired by the use of eminent domain after the effective date of this act. Bonds, notes, and other obligations issued by the entity are issued on behalf of the public agencies that are members of the entity.

2. Any entity created under this section may also issue bond anticipation notes in connection with the authorization, issuance, and sale of bonds. The bonds may be issued as serial bonds or as term bonds or both. Any entity may issue capital appreciation bonds or variable rate bonds. Any bonds, notes, or other obligations must be authorized by resolution of the governing body of the entity and bear the date or dates, mature at the time or times, not exceeding 40 years from their respective dates, bear interest at the rate or rates, be payable at the time or times, be in the denomination, be in the form, carry the registration privileges, be executed in the manner, be payable from the sources and in the medium or payment and at the place, and be subject to the terms of redemption, including redemption prior to maturity, as the resolution may provide. If any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes, or other obligations ceases to be an officer before the delivery of the bonds, notes, or other obligations, the signature or facsimile is valid and sufficient for all purposes as if he or she had remained in office until the delivery. The bonds, notes, or other obligations may be sold at public or private sale for such price as the governing body of the entity shall determine. Pending preparation of the definitive bonds, the entity may issue interim certificates, which shall be exchanged for the definitive bonds. The bonds may be secured by a form of credit enhancement, if any, as the entity deems appropriate. The bonds may be secured by an indenture of trust or trust agreement. In addition, the governing body of the legal entity may delegate, to an officer, official, or agent of the legal entity as the governing body of the legal entity may select, the power to determine the time, manner of sale, public or private; maturities; rate of interest, which may be fixed or may vary at the time and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of the legal entity. However, the amount and maturity of the bonds, notes, or other obligations and the interest rate of the bonds, notes or other obligations must be within the limits prescribed by the governing body of the legal entity and its resolution delegating to an officer, official, or agent the power to authorize the issuance and sale of the bonds, notes, or other obligations.

3. Bonds, notes, or other obligations issued under subparagraph 1. may be validated as provided in chapter 75. The complaint in any action to validate the bonds, notes, or other obligations must be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 must be published in Leon County and in each county that is a member of the entity issuing the bonds, notes, or other obligations, or in which a member of the entity is located, and the complaint and order of

the circuit court must be served only on the State Attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county that is a member of the entity issuing the bonds, notes, or other obligations or in which a member of the entity is located. Section 75.04(2) does not apply to a complaint for validation brought by the legal entity.

4. The accomplishment of the authorized purposes of a legal entity created under this paragraph is in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. Since the legal entity will perform essential governmental functions in accomplishing its purposes, the legal entity is not required to pay any taxes or assessments of any kind whatsoever upon any property acquired or used by it for such purposes or upon any revenues at any time received by it. The bonds, notes, and other obligations of an entity, their transfer and the income therefrom, including any profits made on the sale thereof, are at all times free from taxation of any kind by the state or by any political subdivision or other agency or instrumentality thereof. The exemption granted in this subparagraph is not applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

Section 20. Subsections (1) and (2) of section 403.087, Florida Statutes, are amended, present subsections (3) through (8) of that section are redesignated as subsections (4) through (9), respectively, and new subsection (3) is added to that section to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(1) A ~~No~~ stationary installation that is ~~which will~~ reasonably be expected to be a source of air or water pollution ~~must not shall~~ be operated, maintained, constructed, expanded, or modified without an appropriate and currently valid permit issued by the department, unless exempted by department rule. In no event shall a permit for a water pollution source be issued for a term of more than 10 5 years, ~~nor and in no event~~ may an operation permit issued after July 1, 1992, for a major source of air pollution have a fixed term of more than 5 years. However, upon expiration, a new permit may be issued by the department in accordance with this chapter act and the rules ~~and regulations~~ of the department.

(2) The department shall adopt, ~~and may amend,~~ or repeal, rules, ~~regulations, and standards~~ for the issuance, denial, modification, and revocation of permits under this section.

(3) A renewal of an operation permit for a domestic wastewater treatment facility other than a facility regulated under the National Pollutant Discharge Elimination System (NPDES) Program under s. 403.0885 must be issued upon request for a term of up to 10 years, for the same fee and under the same conditions as a 5-year permit, in order to provide the owner or operator with a financial incentive, if:

(a) The waters from the treatment facility are not discharged to Class 1 municipal injection wells or the treatment facility is not required to comply with the federal standards under the Underground Injection Control program under chapter 62-528 of the Florida Administrative Code;

(b) The treatment facility is not operating under a temporary operating permit or a permit with an accompanying administrative order and does not have any enforcement action pending against it by the United States Environmental Protection Agency, the department, or a local program approved under s. 403.182;

(c) The treatment facility has operated under an operation permit for 5 years and, for at least the preceding 2 years, has generally operated in conformance with the limits of permitted flows and other conditions specified in the permit;

(d) The department has reviewed the discharge-monitoring reports required under department rule and is satisfied that the reports are accurate;

(e) The treatment facility has generally met water quality standards in the preceding 2 years, except for violations attributable to events beyond the control of the treatment plant or its operator, such as destruction of equipment by fire, wind, or other abnormal events that could not reasonably be expected to occur; and

(f) The department, or a local program approved under s. 403.182, has conducted, in the preceding 12 months, an inspection of the facility

and has verified in writing to the operator of the facility that it is not exceeding the permitted capacity and is in substantial compliance.

The department shall keep records of the number of 10-year permits applied for and the number and duration of permits issued for longer than 5 years.

Section 21. Section 403.0871, Florida Statutes, 1996 Supplement, is amended to read:

403.0871 Florida Permit Fee Trust Fund.—There is established within the department a nonlapsing trust fund to be known as the "Florida Permit Fee Trust Fund." All funds received from applicants for permits pursuant to ss. 161.041, 161.053, 161.0535, 403.087(6)(5), and 403.861(8) shall be deposited in the Florida Permit Fee Trust Fund and shall be used by the department with the advice and consent of the Legislature to supplement appropriations and other funds received by the department for the administration of its responsibilities under this chapter and chapter 161. In no case shall funds from the Florida Permit Fee Trust Fund be used for salary increases without the approval of the Legislature.

Section 22. Paragraphs (a)7. and (a)10. of subsection (11) of section 403.0872, Florida Statutes, 1996 Supplement, is amended to read:

403.0872 Operation permits for major sources of air pollution; annual operation license fee.—Provided that program approval pursuant to 42 U.S.C. s. 7661a has been received from the United States Environmental Protection Agency, beginning January 2, 1995, each major source of air pollution, including electrical power plants certified under s. 403.511, must obtain from the department an operation permit for a major source of air pollution under this section, which is the only department operation permit for a major source of air pollution required for such source. Operation permits for major sources of air pollution, except general permits issued pursuant to s. 403.814, must be issued in accordance with the following procedures and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with the provisions of this section, the procedures contained in this section prevail:

(11) Commencing in 1993, each major source of air pollution permitted to operate in this state must pay between January 15 and March 1 of each year, upon written notice from the department, an annual operation license fee in an amount determined by department rule. The annual operation license fee shall be terminated immediately in the event the United States Environmental Protection Agency imposes annual fees solely to implement and administer the major source air-operation permit program in Florida under 40 C.F.R. s. 70.10(d).

(a) The annual fee must be assessed based upon the source's previous year's emissions and must be calculated by multiplying the applicable annual operation license fee factor times the tons of each regulated air pollutant (except carbon monoxide) allowed to be emitted per hour by specific condition of the source's most recent construction or operation permit, times the annual hours of operation allowed by permit condition; provided, however, that:

7. If the department has not received the fee by February 15 of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by March 1. ~~If the department has not received the fee is not postmarked~~ by March 1 of the calendar year, commencing with calendar year 1997, the department shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807. The department may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The department may waive the collection of underpayment and shall not be required to refund overpayment of the fee, if the amount due is less than 1 percent of the fee, up to \$50. The department may revoke any major air pollution source operation permit if it finds that the permit holder has failed to timely pay any required annual operation license fee, penalty, or interest.

10. Notwithstanding the provisions of s. 403.087(6)(5)(a)4.a., authorizing air pollution construction permit fees, the department may not require such fees for changes or additions to a major source of air pollution permitted pursuant to this section, unless the activity triggers permitting requirements under Title I, Part C or Part D, of the federal

Clean Air Act, 42 U.S.C. ss. 7470-7514a. Costs to issue and administer such permits shall be considered direct and indirect costs of the major stationary source air-operation permit program under s. 403.0873. The department shall, however, require fees pursuant to the provisions of s. 403.087(6)(5)(a)4.a. for the construction of a new major source of air pollution that will be subject to the permitting requirements of this section once constructed and for activities triggering permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.

Section 23. Sections 468.540, 468.541, 468.542, 468.543, 468.544, 468.545, 468.546, 468.547, 468.548, and 468.552, Florida Statutes, and sections 468.549, 468.550, and 468.551, Florida Statutes, as amended by chapter 94-119, Laws of Florida, are hereby repealed.

Section 24. Subsections (7) through (13) of section 367.021, Florida Statutes, are renumbered as subsections (8) through (14), respectively, and a new subsection (7) is added to said section to read:

367.021 Definitions.—As used in this chapter, the following words or terms shall have the meanings indicated:

(7) "Environmental compliance costs" means all reasonable expenses and a fair return on the prudent investments incurred in complying with federal, state, or local environmental laws, rules, regulations, orders, ordinances, or resolutions, or other such requirements. The commission shall be bound by the determinations, permitting, and enforcement decisions of the United States Environmental Protection Agency, the department of environmental protection, or a water management district, or other entity with jurisdiction, as to the need for, capacity of, and type of facilities, including land and processes, required for compliance, and the need for, capacity of, and type of facilities, including land and processes, required as part of any reuse system or project.

Section 25. Subsection (11) is added to section 367.022, Florida Statutes, 1996 Supplement, to read:

367.022 Exemptions.—The following are not subject to regulation by the commission as a utility nor are they subject to the provisions of this chapter, except as expressly provided:

(11) Any person providing only non-potable water for irrigation purposes in a geographic area where potable water service is available from a governmentally or privately owned utility or a private well.

Section 26. Subsection (2) of section 367.081, Florida Statutes, is amended to read:

367.081 Rates; procedure for fixing and changing.—

(2)(a) The commission shall, either upon request or upon its own motion, fix rates which are just, reasonable, compensatory, and not unfairly discriminatory. In every such proceeding, the commission shall consider the value and quality of the service and the cost of providing the service, which shall include, but not be limited to, debt interest; the requirements of the utility for working capital; maintenance, depreciation, tax, and operating expenses incurred in the operation of all property used and useful in the public service; and a fair return on the investment of the utility in property used and useful in the public service. However, the commission shall not allow the inclusion of contributions-in-aid-of-construction in the rate base of any utility during a rate proceeding; and accumulated depreciation on such contributions-in-aid-of-construction shall not be used to reduce the rate base, nor shall depreciation on such contributed assets be considered a cost of providing utility service. The commission shall also consider the investment of the utility in land acquired or facilities constructed or to be constructed in the public interest within a reasonable time in the future, not to exceed, unless extended by the commission, 24 months from the end of the historical test period used to set final rates. *Notwithstanding the foregoing, the commission shall approve rates for service that allow a utility to recover the full amount of environmental compliance costs from customers. Rates for service shall not include allowance for funds prudently invested or similar charges.*

(b) In establishing initial rates for a utility, the commission may project the financial and operational data as set out in paragraph (a) to a point in time when the utility is expected to be operating at a reasonable level of capacity.

Section 27. Subsections (6) and (8) of section 367.171, Florida Statutes, 1996 Supplement are amended to read:

(6) Any county in which utilities as herein defined were regulated by the commission on or after January 1, 1980, which subsequently cease to be so regulated, shall, within 90 days of the cessation of commission regulation *or the effective date of this act*, adopt and follow as minimum standards of regulation the provisions of *s. 367.021*, *s. 367.081*, except for paragraph (4)(a), and *ss. 367.0817 and s. 367.082*, except that the word "commission" shall be read as "the governing body of such county" when the context implies or admits. The authorized rate of return shall be no less than the weighted cost of the capital of the utility, including debt and equity.

(8) Each county which is excluded from the provisions of this chapter shall regulate the rates of all utilities in that county which would otherwise be subject to regulation by the commission pursuant to *ss. 367.021, s. 367.081(1), (2), (3), and (6), and 367.0817*. The county shall not regulate the rates or charges of any system or facility which would otherwise be exempt from commission regulation pursuant to *s. 367.022(2)*. For this purpose the county or its agency shall proceed as though the county or agency is the commission.

Section 28. Subsection (11) is added to section 367.022, Florida Statutes, 1996 Supplement, to read:

367.022 Exemptions.—The following are not subject to regulation by the commission as a utility nor are they subject to the provisions of this chapter, except as expressly provided:

(11) *The sale for resale of bulk supplies of water to a governmental authority or to a utility regulated pursuant to this chapter either by the commission or the county.*

Section 29. Subsection (5) of section 193.625, Florida Statutes, 1996 Supplement, is amended to read:

193.625 High-water recharge lands; classification and assessment.—

(5)(a) In years in which proper application for high-water recharge assessment has been made and granted under this section, for purposes of taxes levied by the county, the assessment of the land must be based on the formula adopted by the county as provided in paragraph (b).

(b) Counties that choose to have a high-water recharge protection tax assessment program must adopt by ordinance a formula for determining the assessment of properties classified as high-water recharge property and a method of contracting with property owners who wish to be involved in the program.

(c) The contract must include a provision that the land assessed as high-water recharge land will be used primarily for bona fide high-water recharge purposes for a period of at least ~~5~~ 10 years, as determined by the county, from January 1 of the year in which the assessment is made. Violation of the contract results in the property owner being subject to the payment of the difference between the total amount of taxes actually paid on the property and the amount of taxes which would have been paid in each previous year the contract was in effect if the high-water recharge assessment had not been used.

(d) A municipality located in any county that adopts an ordinance under paragraph (a) may adopt an ordinance providing for the assessment of land located in the incorporated areas in accordance with the county's ordinance.

(e) Property owners whose land lies within an area determined to be a high-water recharge area must not be required to have their land assessed according to the high-water recharge classification.

(f) In years in which proper application for high-water recharge assessment has not been made, the land must be assessed under *s. 193.011*.

Section 30. This section shall take effect upon becoming law.

Section 31. Subsections (3), (4), (6), and (9) of section 403.1835, Florida Statutes, are amended to read:

403.1835 Sewage treatment facilities revolving loan program.—

(3) The department is authorized to make loans *and grants* to local governmental agencies to assist them in planning, designing, and constructing sewage treatment facilities *and stormwater management systems*.

(a) The department is authorized to *make loans*, ~~use the funds~~ to provide loan guarantees, to purchase loan insurance, and to refinance local debt through the issue of new loans for projects approved by the department. Local governmental agencies are authorized to borrow funds made available pursuant to this section and may pledge any revenue available to them to repay any funds borrowed. The department shall administer loans to local governmental agencies so that at least 15 percent of each annual allocation for loans is reserved for small communities.

(b) *The department may make grants to financially disadvantaged small communities, as defined in s. 403.1838, using funds made available from grant allocations on loans authorized under subsection (4). The grants must be administered in accordance with s. 403.1838.*

(c) *The department may make grants to local government agencies as authorized under the Federal Water Pollution Control Act, or as a result of other federal action. The grants must be administered in accordance with this section and applicable federal requirements.*

(4) The term of loans made pursuant to this section shall not exceed 30 years. *The department may assess grant allocations on the loans for the purpose of making grants to financially disadvantaged small communities. The combined rate of interest and grant allocations rate on loans shall be no greater than the interest rate that paid on the last bonds sold pursuant to s. 14, Art. VII of the State Constitution. The grant allocations on a loan shall be equal to or less than the interest rate on the loan.*

(6) Prior to approval of a *construction* loan, the local government shall:

(a) Provide a repayment schedule.

(b) Submit plans and specifications *and evidence of permissibility* for sewage treatment facilities *and stormwater management systems*.

(c) Provide assurance that records will be kept using accepted government accounting standards and that the department, the Auditor General, or their agents will have access to all records pertaining to the loan.

(d) Provide assurance that the facility will be properly operated and maintained.

(e) Document that the revenues generated will be sufficient to ensure that the facilities will be self-supporting.

(f) Provide assurance that annual financial audit reports, and a separate project audit prepared by an independent certified public accountant upon project completion, will be submitted to the department.

(g) *Submit project planning documentation demonstrating cost-effectiveness, environmental soundness, public participation, and the implementability of the proposed sewage treatment facilities and stormwater management systems.*

(9) *Funds for the loans and grants authorized under this section must be managed as follows:*

(a) A nonlapsing trust fund with revolving loan provisions to be known as the "Sewage Treatment Revolving Loan Fund" is hereby established in the State Treasury to be used as a revolving fund by the department to carry out the purpose of this section. Any funds therein which are not needed on an immediate basis for loans may be invested pursuant to *s. 215.49*. The cost of administering the program shall, ~~to the extent possible~~, be paid from federal funds and, ~~when federal funds become no longer available~~, from reasonable service fees that may be imposed upon loans *so as to enhance program perpetuity*. Grants awarded by the Federal Government, *state matching funds, and investment earnings thereon to fund revolving loans for local governmental agencies' sewage treatment facilities* shall be deposited into the fund. All moneys available in the fund are hereby designated to carry out the

purpose of this section. The principal and interest of all loans repaid and investment earnings shall be deposited into this fund.

(b) *Revenues from the loan grant allocations authorized under subsection (4), federal appropriations, state matching funds for grants authorized by federal statute or other federal action, and service fees, and all earnings thereon, shall be deposited into the department's Grants and Donations Trust Fund. Service fees and all earnings thereon must be used solely for program administration. The loan grant allocation revenues and earnings thereon must be used solely for the purpose of making grants to financially disadvantaged small communities. Federal appropriations and state matching funds for grants authorized by federal statute or other federal action, and earnings thereon, must be used solely for the purposes authorized. All deposits into the department's Grants and Donations Trust Fund under this section, and earnings thereon, must be accounted for separately from all other moneys deposited into the fund.*

Section 32. *Beginning in fiscal year 1998-1999, the Department of Environmental Protection shall make available up to 10 percent of the annual revenue received in the Sewage Treatment Revolving Loan Fund for loans to local governmental agencies for constructing stormwater management systems authorized pursuant to s. 403.1835, Florida Statutes. During this period of time, if the department does not receive requests for projects to use the funds available for stormwater management systems, such funds shall be used for constructing sewage treatment facilities and other activities authorized by s. 403.1835, Florida Statutes.*

Section 33. This act shall take effect July 1, 1997.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to water protection; amending s. 403.8532, F.S.; authorizing the Department of Environmental Protection to make loans to certain public water systems; authorizing use of certain federal Safe Drinking Water Act funds for specified purposes; providing loan criteria, requirements, and limitations; providing for department rules; requiring an annual report; providing for audits; providing for loan service fees; providing for disposition of funds; providing for default; providing penalties for delinquent payments or noncompliance with loan terms and conditions; amending s. 403.860, F.S.; authorizing administrative penalties for failure of a public water system to comply with the Florida Safe Drinking Water Act; providing for rules and procedures; creating s. 403.8615, F.S.; requiring certain new water systems to demonstrate specified technical, managerial, and financial capabilities; creating s. 403.865, F.S.; providing legislative findings and intent relating to operation of water and wastewater treatment facilities by qualified personnel; creating s. 403.866, F.S.; providing definitions; creating s. 403.867, F.S.; requiring such operators to be licensed by the department; creating s. 403.868, F.S.; authorizing a utility to have more stringent requirements; creating s. 403.869, F.S.; authorizing department rules; creating s. 403.87, F.S.; authorizing appointment of a technical advisory council for water and domestic wastewater operator certification; creating s. 403.871, F.S.; providing for application and examination, reexamination, licensure, renewal, and recordmaking and recordkeeping fees; providing for disposition thereof; creating s. 403.872, F.S.; specifying requirements for licensure; creating s. 403.873, F.S.; providing for biennial license renewal; creating s. 403.874, F.S.; providing for inactive status and reactivation of inactive licenses; creating s. 403.875, F.S.; specifying prohibited acts; providing a penalty; creating s. 403.876, F.S.; requiring the department to establish grounds for disciplinary actions; providing for an administrative fine; providing for transfer of powers and duties relating to regulation of operators of water treatment plants and domestic wastewater treatment plants from the Department of Business and Professional Regulation to the Department of Environmental Protection; providing for continuation of certain rules; providing a grandfather provision for operators certified prior to the transfer; amending s. 403.087, F.S.; increasing the maximum term for issuance of permits for stationary water pollution sources; specifying conditions for renewing operation permits for domestic wastewater treatment facilities for an extended term at the same fee; requiring the department to keep certain records; amending s. 403.0871, F.S.; correcting cross references; amending s. 403.0872; clarifying air pollution fee deadline; repealing ss. 468.540, 468.541, 468.542, 468.543, 468.544, 468.545, 468.546, 468.547, 468.548, 468.549, 468.550, 468.551, and 468.552, F.S., relating to water and wastewater treatment plant operator certification by the Department of Business and Professional Regulation; providing an appropriation; amending s. 367.021, F.S.; defining "environmental compliance

costs; amending s. 367.022, F.S.; providing regulatory exemptions for nonpotable irrigation water, under certain circumstances; amending s. 367.081, F.S.; providing for recovery of environmental compliance costs; amending s. 367.171, F.S.; providing application of the act; amending s. 367.022; deregulating bulk supplies of water for sale or resale; amending s. 193.625, F.S.; allowing high-water recharge assessments when lands will be used primarily for bona fide high-water recharge purposes for a period of at least 5 years; amending s. 403.1835, F.S.; expanding the sewage treatment facilities revolving loan program to provide loans to local governmental agencies for construction of stormwater management systems; defining "stormwater management system"; providing additional responsibilities of local governments under the program; providing priority for certain stormwater management system projects; providing for funding; providing an effective date.

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

Amendment 1A—On page 10, line 23, delete "(b)" and insert: (c)

Senator Brown-Waite moved the following amendment to **Amendment 1** which was adopted:

Amendment 1B (with title amendment)—On page 27, line 12 through page 30, line 15, delete those lines and insert:

Section 24. Subsections (11) and (12) are added to section 367.022, Florida Statutes, 1996 Supplement, to read:

367.022 Exemptions.—The following are not subject to regulation by the commission as a utility nor are they subject to the provisions of this chapter, except as expressly provided:

(1) *Any person providing only nonpotable water for irrigation purposes in a geographic area where potable water service is available from a governmentally or privately owned utility or a private well.*

(12) *The sale for resale of bulk supplies of water to a governmental authority or to a utility regulated pursuant to this chapter either by the commission or the county.*

(Renumber subsequent sections.)

And the title is amended as follows:

On page 37, line 25 through page 38, line 2, delete those lines and insert: appropriation; amending s. 367.022, F.S.; providing regulatory exemptions for nonpotable irrigation water, under certain circumstances; deregulating bulk

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

Amendment 1C—On page 31, lines 20 and 21, delete those lines and renumber subsequent sections.

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **HB 1323** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Latvala, by two-thirds vote **HB 1271** was withdrawn from the Committees on Natural Resources; and Ways and Means.

On motions by Senator Latvala, by two-thirds vote—

HB 1271—A bill to be entitled An act relating to trust funds; creating s. 403.8533, F.S.; creating the Drinking Water Revolving Loan Trust Fund within the Department of Environmental Protection; specifying the purposes of the trust fund; providing source of moneys; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—a companion measure, was substituted for **SB 1038** and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **HB 1271** was placed on the calendar of Bills on Third Reading.

On motion by Senator Horne, the Senate resumed consideration of—

SB 1830—A bill to be entitled An act relating to evidence; amending s. 90.803, F.S.; providing additional exceptions to the prohibition against hearsay evidence; providing an effective date.

—which was previously considered this day. Pending **Amendment 1A** by Senator Horne was adopted.

MOTION TO RECONSIDER AMENDMENT

Senator Campbell moved that the Senate reconsider the vote by which **Amendment 1A** was adopted. The motion failed.

Senator Campbell moved the following amendments to **Amendment 1** which failed:

Amendment 1B (with title amendment)—On page 1, line 15 through page 2, line 3, delete those lines and insert: On page 1, line 9 through page 2, line 13, delete those lines and insert:

Section 1. Paragraph (e) of subsection (1) of section 90.804, Florida Statutes, is amended to read:

90.804 Hearsay exceptions; declarant unavailable.—

(1) DEFINITION OF UNAVAILABILITY.—“Unavailability as a witness” means that the declarant:

(e) Is absent from the hearing, and the proponent of a statement has been unable to procure the declarant’s attendance (or in the case of a hearsay exception under subsection (2)(b), (c), or (d), the declarant’s attendance or testimony) by process or other reasonable means.

However, a declarant is not unavailable as a witness if such exemption, refusal, claim of lack of memory, inability to be present, or absence is due to the procurement or wrongdoing of the party who is the proponent of his or her statement in preventing the witness from attending or testifying.

Section 2. This act shall take effect July 1, 1997, and shall apply to pending cases in which the final pretrial conference occurs on or after that date.

And the title is amended as follows:

On page 2, line 10, insert: On page 1, lines 3 and 4, delete those lines and insert: 90.804, F.S.; amending the definition of unavailability;

Amendment 1C (with title amendment)—On page 1, line 15 through page 2, line 3, delete those lines and insert: On page 1, line 9 through page 2, line 13, delete those lines and insert:

Section 1. Paragraph (e) is added to subsection (2) of section 90.804, Florida Statutes, to read:

90.804 Hearsay exceptions; declarant unavailable.—

(2) HEARSAY EXCEPTIONS.—The following are not excluded under s. 90.802, provided that the declarant is unavailable as a witness:

(e) *Other Exceptions.*—A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (a) the statement is offered as evidence of a material fact; (b) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (c) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, the proponent’s intention to offer the statement and the particulars of it, including the name and address of the declarant.

And the title is amended as follows:

On page 2, line 10, insert: On page 1, line 3, delete “90.803” and insert: 90.804

Amendment 1D—On page 1, lines 30 and 31, delete those lines and insert: *testimony is now offered had an opportunity and similar*

Amendment 1E—On page 2, line 5, after “to” insert: *testimony given after the effective date of this act and shall apply to*

Senator Horne moved the following amendment to **Amendment 1**:

Amendment 1F—On page 2, line 2, after “examination” insert: *provided, however, that the testimony is not inadmissible pursuant to the court’s discretion under s. 90.402 or s. 90.403*

Senator Dudley moved the following substitute amendment for **Amendment 1F** which was adopted:

Amendment 1G—On page 2, line 2, after “examination” insert: *provided, however, the court finds that the testimony is not inadmissible pursuant to s. 90.402 or s. 90.403*

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **SB 1830** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Turner, the rules were waived and the Senate reverted to—

CONSIDERATION OF BILLS ON THIRD READING

CS for SB 544 and CS for SB 1904—A bill to be entitled An act relating to educational firearm safety; amending s. 790.174, F.S.; revising requirements for the safe storage of firearms; amending s. 232.09, F.S.; creating s. 230.235, F.S.; requiring each school district to adopt a policy of zero tolerance for crime and substance abuse; requiring each school district to enter into an agreement with the sheriff which specifies guidelines for reporting delinquent acts and crimes; requiring that the school principal ensure that delinquent acts and crimes are properly reported and other appropriate action taken; revising provisions relating to student attendance responsibility and policy; creating s. 232.0205, F.S.; requiring certain disclosure at school registration and providing penalties for willful nondisclosure; amending s. 232.01, F.S.; revising compulsory school attendance requirements to require children over age 16 to file a formal declaration of intent to terminate school enrollment in order to be exempt from compulsory school attendance requirements; amending s. 39.01, F.S.; revising provisions regarding habitual truancy; amending s. 228.041, F.S.; revising the definitions of the terms “habitual truant” and “dropout”; amending s. 232.2462, F.S.; conforming provisions; amending s. 414.125, F.S.; providing Learnfare program requirements; amending s. 232.17, F.S.; revising procedures relating to enforcement of school attendance; amending s. 232.19, F.S.; revising penalties and court procedures relating to habitual truancy; requiring each public school principal to notify the district school board of students who accumulate a specified number of unexcused absences; authorizing the governing body of a private school to provide such information to the Department of Education; requiring that the Department of Highway Safety and Motor Vehicles withhold issuance of or suspend the driver’s license or learner’s driver’s license of a student who fails to satisfy school attendance requirements; requiring the Department of Juvenile Justice, the Department of Children and Family Services, and the school districts to develop cooperative agreements for working with habitual truants and their families; providing for court-ordered parent training classes and providing penalties for termination of an employee required to attend such classes, under certain circumstances; authorizing the court to impose civil penalties on, or require participation in community service or counseling by, the child; amending s. 232.195, F.S., relating to truancy activities upon transfer of student, to conform; creating s. 232.197, F.S.; requiring notification to a school of court action directly involving the school; amending s. 232.2452, F.S.; revising requirements relating to student report cards; amending s. 232.25, F.S., relating to pupils subject to control of school; providing for a school child’s daily conduct pledge; amending s. 322.05, F.S., relating to the issuance of driver’s licenses; conforming provisions to changes made by the act; amending s. 322.09, F.S.; prohibiting the Department of Highway Safety and Motor Vehicles from issuing a driver’s license or restricted license to a person under a specified age who does not meet requirements for school attendance and is not otherwise exempt from such requirements; creating s. 322.091, F.S.; providing that a minor is not eligible for driving privileges unless the minor is enrolled in school or a home education

program, has received a high school diploma or certificate, is enrolled in certain other educational activities, or obtains a certificate of exemption or hardship waiver; requiring the Department of Highway Safety and Motor Vehicles to notify a minor before the department suspends the minor's driving privileges because of noncompliance with school attendance requirements; providing for a hardship waiver; providing for a hearing before the public school principal or the designee of the governing body of a private school; providing for the department to reinstate a minor's driving privileges following compliance with school attendance requirements for a specified period; requiring the department to report to school districts on students whose driving privileges are suspended; amending s. 39.015, F.S., relating to rulemaking regarding habitual truants, to conform to the act; amending s. 790.115, F.S.; expanding offenses that are punishable as possessing or discharging weapons or firearms on school property and providing a qualifier to an exception from such offense; amending s. 230.23015, F.S.; clarifying provisions relating to students who commit assault or battery on school personnel; creating s. 232.433, F.S., requiring that the State Board of Education adopt statewide uniform safety standards for student cheerleaders; repealing s. 322.0601, F.S., relating to driver's licenses for minors; providing effective dates.

—as amended April 29 was read the third time by title.

Amendments were considered to conform **CS for SB 544 and CS for SB 1904** to **CS for HB's 1309, 1143, 847, 697, 1391 and 203**.

Pending further consideration of **CS for SB 544 and CS for SB 1904** as amended, on motion by Senator Turner, by two-thirds vote **CS for HB's 1309, 1143, 847, 697, 1391 and 203** was withdrawn from the Committees on Criminal Justice; Education; and Ways and Means.

On motions by Senator Turner, by two-thirds vote—

CS for HB's 1309, 1143, 847, 697, 1391 and 203—A bill to be entitled An act relating to student discipline and school safety; amending s. 232.09, F.S.; revising provisions relating to student attendance responsibility and policy; creating s. 232.0205, F.S.; requiring certain disclosure at school registration and providing penalties for willful nondisclosure; amending s. 232.01, F.S.; revising compulsory school attendance requirements to require children over age 16 to file a formal declaration of intent to terminate school enrollment in order to be exempt from compulsory school attendance requirements; amending s. 39.01, F.S.; revising provisions regarding habitual truancy; amending s. 228.041, F.S.; revising the definitions of the terms "habitual truant" and "drop-out"; amending s. 232.2462, F.S.; conforming provisions; amending s. 414.125, F.S.; providing Learnfare program requirements; amending s. 232.17, F.S.; revising procedures relating to enforcement of school attendance; amending s. 232.19, F.S.; revising penalties and court procedures relating to habitual truancy; requiring each public school principal to notify the district school board of students who accumulate a specified number of unexcused absences; authorizing the governing body of a private school to provide such information to the Department of Education; providing for court-ordered parent training classes and providing penalties for termination of an employee required to attend such classes, under certain circumstances; authorizing the court to impose civil penalties on, or require participation in community service or counseling by, the child; amending s. 232.195, F.S., relating to truancy activities upon transfer of student, to conform; creating s. 232.197, F.S.; requiring notification to a school of court action directly involving the school; amending s. 232.2452, F.S.; revising requirements relating to student report cards; amending s. 232.25, F.S., relating to pupils subject to control of school; providing for a school child's daily conduct pledge; amending s. 39.015, F.S., relating to rulemaking regarding habitual truants, to conform to the act; amending s. 230.2316, F.S., relating to dropout prevention; providing that second chance schools may include residential academies; providing criteria for establishment, operation, and funding of residential academies; providing criteria for participation; requiring parents and legal guardians of students assigned to programs funded by the dropout prevention program to comply with the requirements of the assignment and providing penalties; amending s. 39.085, F.S.; revising provisions relating to the Alternative Education Institute, to convert its mission and procedures and clarify its membership and duties; creating s. 230.235, F.S.; requiring school districts to adopt a policy of zero tolerance for crime, including criminal substance abuse violations; amending s. 232.277, F.S.; requiring reporting and notification of student substance abuse; amending s. 790.115, F.S.; expanding offenses that are punishable as possessing or discharging weapons or firearms on school

property and providing a qualifier to an exception from such offense; amending s. 230.23015, F.S.; clarifying provisions relating to students who commit assault or battery on school personnel; repealing s. 322.0601, F.S., relating to driver's licenses for minors; providing effective dates.

—a companion measure, was substituted for **CS for SB 544 and CS for SB 1904** as amended and by two-thirds vote read the second time by title.

Senator Turner moved the following amendment:

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

Section 1. Section 230.235, Florida Statutes, is created to read:

230.235 Policy of zero tolerance for crime and substance abuse.—

(1) Each school district shall adopt a policy of zero tolerance for crime and substance abuse pursuant to this section. Such policy must require delinquent acts and crimes to be reported to a law enforcement officer if any such delinquent acts or crimes occur when students are under the jurisdiction of the school district.

(2) Each school district shall enter into an agreement with the sheriff of the county which specifies guidelines for ensuring that any felony or violent misdemeanor committed by a student or an adult and any delinquent act that would be a felony or violent misdemeanor if committed by an adult is reported to a law enforcement officer. Such agreement must include the role of the school resource officer, if applicable, in handling reported incidents, special circumstances under which school officials may handle an incident without filing a report with a law enforcement officer, and procedures for ensuring that school personnel properly report delinquent acts and crimes. The school principal shall ensure that all school personnel are properly informed as to their responsibilities regarding the reporting of delinquent acts and crimes, that appropriate delinquent acts and crimes are properly reported, and that the action taken in cases with special circumstances is proper and fully documented.

Section 2. Section 232.09, Florida Statutes, is amended to read:

232.09 Parents and legal guardians responsible for attendance of children; attendance policy.—

(1) The Legislature finds:

(a) It is essential that our children receive an education.

(b) Failure to attend school in a regular and timely fashion hinders the education process.

(c) Truancy and poor school performance have a direct relationship to juvenile delinquency and destructive behavior.

(d) A disproportionate percentage of juvenile crime occurs when juveniles should be in school.

(e) Parents and guardians must be responsible, within reason, for sending their children to school.

(f) If a juvenile refuses to attend school or a parent or guardian refuses to compel the child to attend school, there must exist an efficient and expedient process to enforce attendance laws.

(2) Each parent and legal guardian of a child within the compulsory attendance age is shall be responsible for the such child's school attendance as required by law. The absence of a child from school is shall be prima facie evidence of a violation of this section; however, no criminal prosecution may not shall be brought against a parent, guardian, or other person having control of the child until the provisions of s. 232.17(2)(e) have been complied with. A No parent or guardian of a child is not shall be held responsible for the such child's nonattendance at school under any of the following conditions:

(a)(1) With permission.—The absence was with permission of the head of the school; or

(b)(2) Without knowledge.—The absence was without the parent's knowledge, consent, or connivance, in which case the child shall be dealt with as a dependent child; or

(c)(3) Financial inability.—The parent was unable financially to provide necessary clothes for the child, which inability was reported in writing to the superintendent prior to the opening of school or immediately after the beginning of such inability; provided, that the validity of any claim for exemption under this subsection shall be determined by the superintendent subject to appeal to the school board; or

(d)(4) Sickness, injury, or other insurmountable condition.—Attendance was impracticable or inadvisable on account of sickness or injury, attested to by a written statement of a licensed practicing physician, or was impracticable because of some other stated insurmountable condition as defined by regulations of the state board. *If a student is continually sick and repeatedly absent from school, he or she must be under the supervision of a physician in order to receive an excuse from attendance. Such excuse provides that a student's condition justifies absence for more than the number of days permitted by the district school board.*

Each district school board shall establish an attendance policy which includes, but is not limited to, the required number of days each school year that a student must be in attendance and the number of absences and tardinesses after which a statement explaining such absences and tardinesses must be on file at the school. Each school in the district must determine if an absence or tardiness is excused or unexcused according to criteria established by the district school board.

Section 3. Section 232.0205, Florida Statutes, is created to read:

232.0205 Disclosure at school registration.—According to procedures established by the district school board, each student at the time of initial registration for school in a school district shall fully disclose all previous school expulsions, arrests resulting in a charge, and juvenile justice actions the student has had. Willful failure to make the full disclosure required by this section is a noncriminal violation subject to a fine of up to \$50, based on the student's ability to pay.

Section 4. Paragraph (c) of subsection (1) of section 232.01, Florida Statutes, is amended to read:

232.01 Regular school attendance required between ages of 6 and 16; permitted at age of 5; exceptions.—

(1)

(c) A child who attains the age of 16 years during the school year ~~is shall not subject to compulsory school attendance be required to attend school~~ beyond the date upon which he or she attains that age *if the child files a formal declaration of intent to terminate school enrollment with the district school board. The declaration must acknowledge that terminating school enrollment is likely to reduce the student's earning potential and must be signed by the child and the child's parent or legal guardian. A child who attains the age of 18 years during the school year is not subject to compulsory school attendance beyond the date upon which he or she attains that age.*

Section 5. Subsections (12) and (73) of section 39.01, Florida Statutes, 1996 Supplement, are amended to read:

39.01 Definitions.—When used in this chapter:

(12) "Child in need of services" means a child for whom there is no pending investigation into an allegation or suspicion of abuse, neglect, or abandonment; no pending referral alleging the child is delinquent; or no current supervision by the Department of Juvenile Justice or the Department of Health and Rehabilitative Services for an adjudication of dependency or delinquency. The child must also, pursuant to this chapter, be found by the court:

(a) To have persistently run away from the child's parents or legal custodians despite reasonable efforts of the child, the parents or legal custodians, and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts shall include voluntary participation by the child's parents or legal custodians and the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Children and Family Health and Rehabilitative Services;

(b) To be habitually truant from school, while subject to compulsory school attendance, despite reasonable efforts to remedy the situation pursuant to ~~ss. 232.17 and~~ s. 232.19 and through voluntary participation

by the child's parents or legal custodians and by the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Children and Family Health and Rehabilitative Services; or

(c) To have persistently disobeyed the reasonable and lawful demands of the child's parents or legal custodians, and to be beyond their control despite efforts by the child's parents or legal custodians and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts may include such things as *good-faith* ~~good faith~~ participation in family or individual counseling.

(73) "To be habitually truant" means that:

(a) The child has 15 unexcused absences within 90 calendar days with or without the knowledge or justifiable consent of the child's parent or legal guardian, *is subject to compulsory school attendance under s. 232.01, and is not exempt under from attendance by virtue of being over the age of compulsory school attendance or by meeting the criteria in s. 232.06, s. 232.09, or any other exemptions specified by law or the rules of the State Board of Education.;*

(b) ~~In addition to the actions described in s. 232.17, the school administration has completed the following~~ Escalating activities to determine the cause, and to attempt the remediation, of the child's truant behavior *under ss. 232.17 and 232.19 have been completed.:*

1. ~~After a minimum of 3 and prior to 15 unexcused absences within 90 days, one or more meetings have been held, either in person or by phone, between a school attendance assistant or school social worker, the child's parent or guardian, and the child, if necessary, to report and to attempt to solve the truancy problem. However, if the school attendance assistant or school social worker has documented the refusal of the parent or guardian to participate in the meetings, then this requirement has been met;~~

2. ~~Educational counseling has been provided to determine whether curriculum changes would help solve the truancy problem, and, if any changes were indicated, such changes were instituted but proved unsuccessful in remedying the truant behavior. Such curriculum changes may include enrollment of the child in an alternative education program that meets the specific educational and behavioral needs of the child, including a second chance school, as provided for in s. 230.2316, designed to resolve truant behavior;~~

3. ~~Educational evaluation, pursuant to the requirements of s. 232.19(3)(b)3., has been provided; and~~

4. ~~The school social worker, the attendance assistant, or the school superintendent's designee if there is no school social worker or attendance assistant has referred the student and family to the children in need of services and families in need of services provider or the case staffing committee, established pursuant to s. 39.426, as determined by the cooperative agreement required in s. 232.19(3). The case staffing committee may request the department or its designee to file a child in need of services petition based upon the report and efforts of the school district or other community agency or may seek to resolve the truancy behavior through the school or community based organizations or agencies.~~

If a child who is subject to within the compulsory school attendance age is responsive to the interventions described in ss. 232.17 and 232.19 this paragraph and has completed the necessary requirements to pass the current grade as indicated in the district pupil progression plan, the child shall not be determined to be habitually truant and shall be passed. If a child within the compulsory school attendance age has 15 unexcused absences within 90 calendar days or fails to enroll in school, the State Attorney may file a child-in-need-of-services petition. Prior to filing a petition, the child must be referred to the appropriate agency for evaluation. After consulting with the evaluating agency, the State Attorney may elect to file a child-in-need-of-services petition.

(c) ~~A school representative, designated according to school board policy school social worker or other person designated by the school administration, if the school does not have a school social worker, and an intake counselor or case manager of the Department of Juvenile Justice have jointly investigated the truancy problem or, if that was not feasible, have performed separate investigations to identify conditions which may be contributing to the truant behavior; and if, after a joint staffing of the~~

case to determine the necessity for services, such services were determined to be needed, the persons who performed the investigations met jointly with the family and child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the truant behavior. ~~and~~

(d) The failure or refusal of the parent or legal guardian or the child to participate, or make a good faith effort to participate, in the activities prescribed to remedy the truant behavior, or the failure or refusal of the child to return to school after participation in activities required by this subsection, or the failure of the child to stop the truant behavior after the school administration and the Department of Juvenile Justice have worked with the child as described in s. 232.19(3) shall be handled as prescribed in s. 232.19.

Section 6. Subsections (28) and (29) of section 228.041, Florida Statutes, 1996 Supplement, are amended to read:

228.041 Definitions.—Specific definitions shall be as follows, and wherever such defined words or terms are used in the Florida School Code, they shall be used as follows:

(28) HABITUAL TRUANT.—A habitual truant is a student who has 15 unexcused absences within 90 calendar days with or without the knowledge or consent of the student's parent or legal guardian, *is subject to compulsory school attendance under s. 232.01, and is not exempt under and who is not exempt from attendance by virtue of being over the age of compulsory school attendance, by meeting the criteria in s. 232.06 or s. 232.09, or by meeting the criteria for any other exemption specified by law or rules of the State Board of Education.* Such a student must have been the subject of the activities specified in ss. 232.17 and 232.19, without resultant successful remediation of the truancy problem before being dealt with as a child in need of services according to the provisions of chapter 39.

(29) DROPOUT.—A dropout is a student ~~not subject to over the age of compulsory school attendance, as defined in s. 232.01, who meets any one or more of the following criteria:~~

(a) The student has voluntarily removed himself or herself from the school system before graduation for reasons that include, but are not limited to, marriage or entrance into the military, or the student has withdrawn from school because he or she has failed the statewide student assessment test and thereby does not receive any of the certificates of completion;

(b) The student has not met the relevant attendance requirements of the school district pursuant to State Board of Education rules, or the student was expected to attend a school but did not enter as expected for unknown reasons, or the student's whereabouts are unknown;

(c) The student has withdrawn from school, but has not transferred to another public or private school or enrolled in any vocational, adult, or alternative educational program;

(d) The student has withdrawn from school due to hardship, unless such withdrawal has been granted under the provisions of s. ~~322.091~~ ~~322.0604~~, court action, expulsion, medical reasons, or pregnancy; or

(e) The student is not eligible to attend school because of reaching the maximum age for an exceptional student program in accordance with the district's policy.

Students not exempt from attendance pursuant to s. 232.06 and *who are subject to under the age of compulsory school attendance under s. 232.01 and who stop attending school are shall be known as habitual truants as defined in subsection (28) and are not to be considered dropouts.* The State Board of Education may adopt rules to implement the provisions of this subsection.

Section 7. Subsection (2) of section 232.2462, Florida Statutes, is amended to read:

232.2462 Attendance requirement for receipt of high school credit; definition of "credit".—

(2) A student may not be awarded a credit if he or she has not been in for instruction for a minimum of 135 hours unless he or she has demonstrated mastery of the student performance standards in the

course of study as provided by rules of the district school board. Excused absences as determined by the district school board and as carried out by the secondary school principal shall not be counted against the 135-hour minimum requirement. Criteria for determining excused absences shall be as provided in s. 232.022, s. 232.0225, absence for religious instruction, or a religious holiday, and s. 232.09(2)(d)(4), absence due to sickness, injury, or other insurmountable condition, and absence due to participation in an academic class or program. Missed work shall be made up, as provided in the pupil progression plan established by the district school board by rule, for all excused absences. The difference between the 135-hour minimum requirement and the 150-hour definition of full credit established in this section may at the discretion of the secondary school principal be used for noninstructional extracurricular activities unless otherwise provided by district school board rule. In credit programs operated in the period beyond 180 school days, each full-credit course must be established for a minimum of 120 hours.

Section 8. Subsection (2) of section 414.125, Florida Statutes, 1996 Supplement, is amended to read:

414.125 Learnfare program.—

(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. *The conference must address acceptable student attendance, grades, and behavior and must be documented by the school and reported to the department. The department shall notify a school of any student in attendance at that school who is a participant in the Learnfare program in order that the required conferences are held.*

Section 9. Section 232.17, Florida Statutes, 1996 Supplement, is amended to read:

~~232.17 Enforcement of school attendance Attendance assistants; qualifications; compensation; duties.—Pursuant to procedures established by the district school board, a designated school representative must complete activities designed to determine the cause and attempt the remediation of truant behavior, as provided in this section. Provisions for the employment, qualifications, compensation, and duties of attendance assistants shall be as follows:~~

~~(1) EMPLOYMENT AND QUALIFICATIONS OF ATTENDANCE ASSISTANTS.—The school board, upon the recommendation of the superintendent, may employ and fix the compensation, including reimbursement for travel, of a sufficient number of qualified attendance assistants to guarantee regular attendance at school of all children of the district within compulsory school age requirements who are not herein exempted from attendance.~~

~~(2) DUTIES AND RESPONSIBILITIES OF ATTENDANCE ASSISTANTS.—The duties and responsibilities of the attendance assistant shall be exercised under the direction of the superintendent and shall be as follows:~~

~~(a) Maintain records.—Pupil accounting records, unless maintained by others assigned by the superintendent, shall be kept by attendance assistants. These records shall be on forms approved pursuant to regulations of the state board.~~

~~(1)(b) INVESTIGATE NONENROLLMENT AND UNEXCUSED ABSENCES.—A designated school representative in accordance with procedure established by the state board, attendance assistants shall investigate cases of nonenrollment and unexcused absences from school of all children subject to compulsory school attendance within the compulsory school age.~~

~~(2)(e) GIVE WRITTEN NOTICE.—Under the direction of the superintendent, a designated school representative the attendance assistant shall give written notice, either in person or by return-receipt registered mail, to the parent, guardian, or other person having control when no valid reason is found for a child's nonenrollment in school or when the child has a minimum of 3 but fewer than 6 1/2 unexcused absences within 90 calendar days, requiring enrollment or attendance within 3 days after from the date of notice. If the such notice and requirement are ignored, the designated school representative attendance assistant shall report the case to the superintendent, and may refer the case to the case staffing committee, established pursuant to s. 39.426, if the conditions~~

of s. 232.19(3) have been met. The superintendent may take such steps as are necessary to bring criminal prosecution against the parent, guardian, or other person having control. ~~No further written notice of the child's absence from school is required to be given to the parent, guardian, or other person having control unless the child, upon his or her return to school, remains in attendance for 10 consecutive days.~~

(3)(d) RETURN CHILD TO PARENT.—~~A designated school representative~~ The attendance assistant shall visit the home or place of residence of a child and any other place in which he or she is likely to find any child who is required to attend school when such child is *not enrolled or is absent from school during school hours without an excuse*, and, when ~~the such child is has been~~ found, shall return the child to his or her parent or to the principal or teacher in charge of the school, or to the private tutor from whom absent.

(e) ~~Visit home.—The attendance assistant shall visit promptly the home of each child of school age in his or her attendance district not in attendance upon the school, and of any child who should attend the Florida State School for the Deaf and the Blind, and who is reported as not enrolled in that school or as absent without excuse.~~

(4) WRITTEN NOTICE.—If no valid reason is found for such nonenrollment or absence, ~~from such school or schools~~ the designated school representative attendance assistant shall give written notice to the parent, requiring the child's enrollment or attendance as prescribed above. The designated school representative attendance assistant shall secure the written approval of the president of the Florida State School for the Deaf and the Blind before he or she directs or requests the parents of any child to take or send such child to that school. Ten days' notice must be given in the case of a child who is ordered sent to that school. On refusal or failure of the parent to meet such requirement, the designated school representative attendance assistant shall report the same to the superintendent, and that official shall proceed to take such action as is prescribed in s. 232.19(2).

(5)(f) REPORT TO THE DIVISION OF JOBS AND BENEFITS.—A designated school representative ~~The attendance assistant~~ shall report to the Division of Jobs and Benefits of the Department of Labor and Employment Security or to any person acting in similar capacity who may be designated by law to receive such notices, all violations of the Child Labor Law that may come to his or her knowledge.

(6)(g) RIGHT TO INSPECT.—A designated school representative ~~The attendance assistant~~ shall have the same right of access to, and inspection of, establishments where minors may be employed or detained as is given by law to the Division of Jobs and Benefits only for the purpose of ascertaining whether children of compulsory school age are actually employed there and are actually working there regularly. The designated school representative attendance assistant shall, if he or she finds unsatisfactory working conditions or violations of the Child Labor Law, report his or her findings to the Division of Jobs and Benefits or its agents.

(7)(h) RECORDS ~~Record of visits.~~—Each designated school representative who performs duties according to this section ~~The attendance assistant~~ shall keep an accurate record of all children returned to schools or homes, of all cases prosecuted, and of all other service performed. A written report of all such activities shall be made quarterly to the school board and shall be filed in the office of the superintendent. *If a child repeats a pattern of nonattendance within one school year, the designated school representative shall resume the series of escalating activities at the point at which he or she had previously left off.*

Section 10. Section 232.19, Florida Statutes, 1996 Supplement, is amended to read:

232.19 Court procedure and penalties.—The court procedure and penalties for the enforcement of the provisions of this chapter, relating to compulsory school attendance, shall be as follows:

(1) COURT JURISDICTION.—The circuit court has original and exclusive jurisdiction of all proceedings against, or prosecutions of, children under the provisions of this chapter. Proceedings against, or prosecutions of, parents or employers as provided by this section shall be in the court of each county having jurisdiction of misdemeanors wherein trial by jury is afforded the defendant.

(2) NONENROLLMENT AND NONATTENDANCE CASES.—

(a) In each case of nonenrollment or of nonattendance upon the part of a child who is required to attend some school, when no valid reason for such nonenrollment or nonattendance is found, the superintendent shall institute a criminal prosecution against the child's parent.

(b) *Each public school principal or the principal's designee shall notify the district school board of each minor under its jurisdiction who accumulates 15 unexcused absences in a period of 90 calendar days. Each designee of the governing body of each private school, and each parent whose child is enrolled in a home education program, may provide the Department of Highway Safety and Motor Vehicles with the legal name, sex, date of birth, and social security number of each minor under his or her jurisdiction who fails to satisfy relevant attendance requirements and who fails to otherwise satisfy the requirements of s. 322.091. The superintendent must provide the Department of Highway Safety and Motor Vehicles the legal name, sex, date of birth, and social security number of each minor who has been reported under this paragraph and who fails to otherwise satisfy the requirements of s. 322.091. The Department of Highway Safety and Motor Vehicles may not issue a driver's license or learner's driver's license to, and shall suspend any previously issued driver's license or learner's driver's license of, any such minor, pursuant to the provisions of section 322.091.*

(3) HABITUAL TRUANCY CASES.—*In accordance with procedures established by the district school board, the designated school representative The school social worker, the attendance assistant, or the school superintendent's designee if there is no school social worker or attendance assistant shall refer a student who is habitually truant and the student's family to the children-in-need-of-services and families-in-need-of-services provider or the case staffing committee, established pursuant to s. 39.426, as determined by the cooperative agreement required in this section. The case staffing committee may request the Department of Juvenile Justice or its designee to file a child-in-need-of-services petition based upon the report and efforts of the school district or other community agency or may seek to resolve the truancy behavior through the school or community-based organizations or agencies. Prior to and subsequent to the filing of a child-in-need-of-services petition due to habitual truancy, the appropriate governmental agencies must allow a reasonable time to complete actions required by this subsection to remedy the conditions leading to the truant behavior. The following criteria must be met and documented in writing prior to the filing of a petition:*

(a) The child must have 15 unexcused absences within 90 calendar days with or without the knowledge or consent of the child's parent or legal guardian, *must be subject to compulsory school attendance, and must not be exempt under and must not be exempt from attendance by virtue of being over the age of compulsory school attendance or by meeting the criteria in s. 232.06, s. 232.09, or any other exemption specified by law or the rules of the State Board of Education.*

(b) In addition to the actions described in s. 232.17, the school administration must have completed the following activities to determine the cause, and to attempt the remediation, of the child's truant behavior:

1. After a minimum of 3 and prior to 6-15 unexcused absences within 90 calendar days, one or more meetings must have been held, either in person or by phone, between a ~~designated school representative school attendance assistant or school social worker~~, the child's parent or guardian, and the child, if necessary, to report and to attempt to solve the truancy problem. However, if the ~~designated school representative school attendance assistant or school social worker~~ has documented the refusal of the parent or guardian to participate in the meetings, this requirement has been met.

2. Educational counseling must have been provided to determine whether curriculum changes would help solve the truancy problem, and, if any changes were indicated, such changes must have been instituted but proved unsuccessful in remedying the truant behavior. Such curriculum changes may include enrollment of the child in an alternative education program that meets the specific educational and behavioral needs of the child, including a second chance school, as provided for in s. 230.2316, designed to resolve truant behavior.

3. Educational evaluation, which may include psychological evaluation, must have been provided to assist in determining the specific condition, if any, that is contributing to the child's nonattendance. The evalu-

ation must have been supplemented by specific efforts by the school to remedy any diagnosed condition.

If a child *who is subject to within the compulsory school attendance age* is responsive to the interventions described in this paragraph and has completed the necessary requirements to pass the current grade as indicated in the district pupil progression plan, the child shall be passed.

(4) *COOPERATIVE AGREEMENTS.*—

(e) The district manager of the Department of Juvenile Justice or the district manager's designee, *the district administrator of the Department of Children and Family Services or the district administrator's designee*, and the superintendent of the local school district or the superintendent's designee must *develop have developed* a cooperative interagency agreement *that: which*

(a) Clearly defines each department's role, responsibility, and function in working with habitual truants and their families.

(b) *Identifies and implements measures to resolve and reduce truant behavior. The interagency agreement shall specify that the participants*

(c) *Addresses address* issues of streamlining service delivery, the appropriateness of legal intervention, case management, the role and responsibility of the case staffing committee, student and parental intervention and involvement, and community action plans. *The interagency agreement shall*

(d) *Delineates delineate* timeframes for implementation and *identifies identify* a mechanism for reporting results by the district juvenile justice manager or the district manager's designee and the superintendent of schools or the superintendent's designee to the Department of Juvenile Justice and the Department of Education and other governmental entities as needed. *The cooperative agreement may designate*

(e) *Designates* which agency *is shall be* responsible for each of the intervention steps in *s. 39.01(73), or this section, to if such designation shall* yield more effective and efficient intervention services.

(5)(4) *ATTENDANCE REGISTER AS EVIDENCE.*—The register of attendance of pupils at a public, parochial, denominational, or private school, or of pupils taught by a private tutor, kept in compliance with rules and regulations of the state board is prima facie evidence of the facts which it is required to show. A certified copy of any rule or regulation and a statement of the date of its adoption and promulgation by the state board is admissible as prima facie evidence of the provisions of *the such rule or regulation and of the date of its adoption or promulgation.*

(6)(5) *PROCEEDINGS AND PROSECUTIONS; WHO MAY BEGIN.*—Proceedings or prosecutions under *the provisions of this chapter may be commenced begun* by the superintendent, by *a designated school representative an attendance assistant*, by the probation officer of the county, by the executive officer of any court of competent jurisdiction, or by an officer of any court of competent jurisdiction, or by a duly authorized agent of the Department of Education *or the Department of Juvenile Justice. If a proceeding has been commenced against both a parent or legal guardian and a child pursuant to this chapter, the presiding courts shall make every effort to coordinate sanctions against the child and parent or legal guardian, including ordering the child and parent or legal guardian to perform community service hours or attend counseling together.*

(7)(6) *PENALTIES.*—The penalties for refusing or failing to comply with *the provisions of this chapter shall be as follows:*

(a) The parent *or legal guardian.*—

1. A parent *or legal guardian* who refuses or fails to have a child who is under his or her control attend school regularly, or who refuses or fails to comply with the requirements in subsection (3), *commits is guilty of* a misdemeanor of the second degree, punishable as provided in *s. 775.082 or s. 775.083 by law.*

2. The continued or habitual absence of a child without the consent of the principal or teacher in charge of the school he or she attends or should attend, or of the tutor who instructs or should instruct him or her, is prima facie evidence of a violation of this chapter; however, *a showing the court of the appropriate jurisdiction, upon finding that the parent or legal guardian has made a bona fide and diligent effort to control and*

keep the child in school, *shall be an affirmative defense to excuse the parent from any criminal or other liability under this subsection prescribed herein and the court shall refer the parent or legal guardian and child for counseling, guidance, or other needed services.*

3. *In addition to any other punishment, the court shall order a parent or legal guardian who has violated this section to send the child to school, and may also order the parent or legal guardian to participate in an approved parent training class, attend school with the child, perform community service hours at the school, or participate in counseling or other services, as appropriate. If a parent or legal guardian is ordered to attend school with a child, the school shall provide for programming to educate the parent or legal guardian and child on the importance of school attendance. It shall be unlawful to terminate any employee solely because he or she is attending school with his or her child pursuant to a court order.*

(b) The principal or teacher.—A principal or teacher in *any charge of a school, public, parochial, denominational, or private school, or a private tutor who willfully violates any provision of this chapter may, upon satisfactory proof of such violation, have his or her certificate revoked by the Department of Education.*

(c) The employer.—

1. An employer who fails to notify the superintendent when he or she ceases to employ a child *commits is guilty of* a misdemeanor of the second degree, punishable as provided in *s. 775.082 or s. 775.083 by law.*

2. An employer who terminates any employee solely because he or she is attending school with a child pursuant to court order *commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.*

(d) The child.—

1. *In addition to any other authorized sanctions, the court may order a child found to be a habitual truant to pay a civil penalty of \$2 for each day of school missed, perform up to 25 community service hours at the school, or participate in counseling or other services, as appropriate.*

2. *Upon a second or subsequent finding that a child is a habitual truant, the court, in addition to any other authorized sanctions, may order the child to pay a civil penalty of \$5 for each day of school missed, perform up to 50 community service hours at the school, or participate in counseling or other services, as appropriate.*

Section 11. Section 232.195, Florida Statutes, is amended to read:

232.195 Continuation of truancy remedial activities upon transfer of student; retention of legal jurisdiction.—

(1) If, during the activities designed to remedy truant behavior as described in s. 232.19, the parent or legal guardian of the student who is the subject of such activities transfers the student to another school district in this state in an attempt to circumvent the remedial procedures which have already begun, the administration of the school from which the student transferred shall provide to the administration of the new school, at no charge, copies of all available records and documents relevant to such remedial activities, and the administration of the new school shall begin remedial activities in the program that most closely meets the transfer student's needs.

(2) In the event that a legal proceeding has commenced, as provided in s. 232.19(3), against a student who has been determined to be a habitual truant, the movement of the student who is the subject of such proceeding to another circuit court district in this state will not affect the jurisdiction of the court to proceed with the case under the law.

Section 12. Section 232.197, Florida Statutes, is created to read:

232.197 *Notification to schools of court action.*—*If a court takes action that directly involves a child's school, including, but not limited to, an order that a student attend school, attend school with his or her parent or legal guardian, perform at grade level, or perform community service hours at the school, the office of the clerk of the court shall provide notice to the school of the court's action.*

Section 13. Section 232.2452, Florida Statutes, is amended to read:

232.2452 Report cards; *end-of-the-year status*.—

(1) *Each school district shall establish and publish policies requiring the content and regular issuance of student report cards for all elementary school, middle school, and high school students. These report cards must clearly depict and grade:*

(a) *The student's academic performance in each class or course, which in grades 1 through 12 must be based upon examinations as well as written papers, class participation, and other academic performance criteria.*

(b) *The student's conduct and behavior.*

(c) *The student's attendance, including absences and tardiness.*

(2) *Each school district is encouraged to establish no fewer than two districtwide report card pickup days per year to facilitate teacher-parent conferences and enhance parental responsibility for student performance and behavior. During a report card pickup day, each parent or guardian may visit his or her child's school and teacher and receive the child's report card during hours established by the district school board. School districts are encouraged to establish flexible scheduling of personnel during the hours designated by the district school board for report card pickup to allow before-school, after-school, evening, or weekend opportunities for parents to visit the school and teacher.*

(3) *A student's final report card for a school year shall contain a statement indicating end-of-the-year status regarding performance or nonperformance at grade level, acceptable or unacceptable behavior and attendance, and promotion or nonpromotion.*

School districts shall not allow schools to exempt students from academic performance requirements based on practices or policies designed to encourage student attendance.

Section 14. Subsection (4) is added to section 232.25, Florida Statutes, 1996 Supplement, to read:

232.25 Pupils subject to control of school.—

(4) *Each pupil enrolled in a school may be required to take the following school child's daily conduct pledge:*

(a) *I will respect and obey my parents and my teachers.*

(b) *I will not hurt another person with my words or my acts, because it is wrong to hurt others.*

(c) *I will tell the truth, because it is wrong to tell a lie.*

(d) *I will not steal, because it is wrong to take someone else's property.*

(e) *I will respect my body, and not take drugs.*

(f) *I will show strength and courage, and not do something wrong just because others are doing it.*

(g) *I pledge to be nonviolent and to respect my teachers and fellow classmates.*

Section 15. Subsections (1) and (2) of section 322.05, Florida Statutes, 1996 Supplement, are amended to read:

322.05 Persons not to be licensed.—The department may not issue a license:

(1) To a person who is under the age of 16 years, except that the department may issue a learner's driver's license to a person who is at least 15 years of age and who meets the requirements of ss. 322.091 and 322.1615 s. 322.161 and of any other applicable law or rule.

(2) To a person who is at least 16 years of age but is under 18 years of age unless the person meets the requirements of s. 322.091 and holds a valid:

(a) Learner's driver's license for at least 6 months before applying for a license; or

(b) License that was issued in another state or in a foreign jurisdiction and that would not be subject to suspension or revocation under the laws of this state.

Section 16. Subsection (3) is added to section 322.09, Florida Statutes, 1996 Supplement, as amended by section 4 of chapter 93-144, Laws of Florida, to read:

322.09 Application of minors.—

(3) *The department may not issue a driver's license or learner's driver's license to any applicant under the age of 18 years who is not in compliance with the requirements of s. 322.091.*

Section 17. Section 322.091, Florida Statutes, is created to read:

322.091 Attendance requirements.—

(1) **ELIGIBILITY REQUIREMENTS FOR DRIVING PRIVILEGES.**—*A minor is not eligible for driving privileges unless that minor:*

(a) *Is enrolled in a public school, nonpublic school, or home education program and satisfies relevant attendance requirements;*

(b) *Has received a high school diploma, a high school equivalency diploma, a special diploma, or a certificate of high school completion;*

(c) *Is enrolled in a study course in preparation for the Test of General Educational Development and satisfies relevant attendance requirements;*

(d) *Is enrolled in other educational activities approved by the district school board and satisfies relevant attendance requirements;*

(e) *Has been issued a certificate of exemption according to s. 232.06; or*

(f) *Has received a hardship waiver under this section.*

The department may not issue a driver's license or learner's driver's license to, or shall suspend the driver's license or learner's driver's license of, any minor concerning whom the department receives notification of noncompliance with the requirements of this section.

(2) **NOTIFICATION OF INTENT TO SUSPEND; SUSPENSION; RECORD OF NONCOMPLIANCE.**—

(a) *The department shall notify each minor for whom the department has received notification of noncompliance with the requirements of this section as provided in s. 232.19, and the minor's parent or guardian, of the department's intent to suspend the minor's driving privileges.*

(b) *The minor, or the parent or guardian of the minor, has 15 calendar days after the date of receipt of this notice to provide proof of compliance with the requirements of this section as provided in subsection (4) or to request a hardship waiver hearing under subsection (3).*

(c) *Twenty days after the date of issuance of this notice, the department shall suspend the minor's operator's license or learner's driver's license or record the legal name, sex, date of birth, and social security number of each minor who does not possess a driver's license or learner's driver's license, unless the minor has provided the department with verification of compliance with the requirements of subsection (1) or the appropriate school official has provided the department with verification of a request for a waiver hearing.*

(d) *Upon notification of the outcome of a hardship waiver hearing, the department shall suspend the driver's license or learner's driver's license of a minor who was denied a hardship waiver, or record the legal name, sex, date of birth, and social security number of a minor who does not possess a driver's license or learner's driver's license and who was denied a hardship waiver.*

(e) *The department may not issue a driver's license or learner's driver's license to any minor for whom it has a record of noncompliance with the requirements of subsection (1) unless the minor submits verification of compliance pursuant to subsection (4).*

(3) **HARDSHIP WAIVER AND APPEAL.**—

(a) *A minor, or the parent or guardian of a minor, has 15 calendar days after the date of receipt of the notice of intent to suspend to request a hardship waiver hearing before the public school principal, the principal's designee, or the designee of the governing body of a private school*

for the purpose of reviewing the pending suspension of driving privileges. The school official receiving the request shall notify the department of the request for a waiver hearing within 24 hours after receiving the request. Public school officials shall also notify the district school board of the request for a waiver hearing. The hearing must be conducted within 30 calendar days after the public school principal, the principal's designee, or the designee of the governing body of a private school receives the request.

(b) The public school principal, the principal's designee, or the designee of the governing body of a private school shall waive the requirements of subsection (1) for any minor under the school's jurisdiction for whom a personal or family hardship requires that the minor have a driver's license for his or her own, or his or her family's, employment or medical care. The minor or the minor's parent or guardian may present other evidence that indicates compliance with the requirements of subsection (1) at the waiver hearing. The public school principal, the principal's designee, or the designee of the governing body of a private school shall take into consideration the recommendations of teachers, other school officials, guidance counselors, or academic advisers before waiving the requirements of subsection (1).

(c) The public school principal, the principal's designee, or the designee of the governing body of a private school shall notify the department of the outcome of a minor's hardship waiver hearing within 24 hours after conducting the hearing. Public school officials shall also notify the district school board of the outcome of the hearing.

(d) Any person denied a hardship waiver by a public school principal, the principal's designee, or the designee of the governing body of a private school may appeal the decision to the district school board or the governing body of the private school. The district school board or the governing body of the private school shall notify the department if the hardship waiver is subsequently granted.

(4) VERIFICATION OF COMPLIANCE AND REINSTATEMENT.—A district school board shall provide a minor with written verification that he or she is in compliance with the requirements of subsection (1) if the district determines that he or she has been in compliance for 30 days prior to the request for verification of compliance. Upon receiving written verification that the minor is again in compliance with the requirements of subsection (1), the department shall reinstate the minor's driving privilege. Thereafter, if the school district determines that the minor is not in compliance with the requirements of subsection (1), the department shall suspend the minor's driving privilege until the minor is 18 years of age or otherwise satisfies the requirements of subsection (1), whichever occurs first.

(5) REPORTING AND ACCOUNTABILITY.—The department shall report quarterly to each school district the legal name, sex, date of birth, and social security number of each student whose driving privileges have been suspended under this section.

Section 18. Section 39.015, Florida Statutes, is amended to read:

39.015 Rules relating to habitual truants; adoption by Department of Education and Department of Juvenile Justice.—The Department of Juvenile Justice and the Department of Education shall work together on the development of, and shall adopt, rules as necessary for the implementation of ss. 39.01(73), 39.403(2), and 232.19(3) and (6)(a).

Section 19. Effective October 1, 1997, section 790.115, Florida Statutes, is amended to read:

790.115 Possessing or discharging weapons or firearms on school property prohibited; penalties; exceptions.—

(1) A person who exhibits any sword, sword cane, firearm, electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or knife with a blade length greater than 4 inches, except as authorized in support of school-sanctioned activities, in the presence of one or more persons in a rude, careless, angry, or threatening manner and not in lawful self-defense, on the grounds or facilities of any school, school bus, or school bus stop, or within 1,000 feet of the real property that comprises a public or private elementary school, middle school, or secondary school, during school hours or during the time of a sanctioned school activity, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This subsection does not apply to the exhibition of a firearm or weapon on private real

property within 1,000 feet of a school by the owner of such property or by a person whose presence on such property has been authorized, licensed, or invited by the owner.

(2)(a) A person shall not possess any firearm, electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or knife with a blade length greater than 4 inches, except as authorized in support of school-sanctioned activities, on the property of any school, school bus, or school bus stop; however, a person may carry a firearm:

1. In a case to a firearms program, class or function which has been approved in advance by the principal or chief administrative officer of the school as a program or class to which firearms could be carried;

2. In a case to a vocational school having a firearms training range; or

3. In a vehicle pursuant to s. 790.25(5); except that school districts may adopt written and published policies that waive the exception in this subparagraph for purposes of student and campus parking privileges.

For the purposes of this section, "school" means any preschool, elementary school, middle school, junior high school, secondary school, vocational school, or postsecondary school, whether public or nonpublic.

(b) A person who willfully and knowingly possesses any electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or knife with a blade length greater than 4 inches, except as authorized in support of school-sanctioned activities, in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c)1. A person who willfully and knowingly possesses any firearm in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A person who stores or leaves a loaded firearm within the reach or easy access of a minor who obtains the firearm and commits a violation of subparagraph 1. commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; except that this does not apply if the firearm was stored or left in a securely locked box or container or in a location that a reasonable person would have believed to be secure; if the minor obtains the firearm as a result of an unlawful entry by any person; or to members of the Armed Forces, National Guard, or State Militia, or to police or other law enforcement officers, with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

(d) A person who discharges any weapon or firearm while in violation of paragraph (a), unless discharged for lawful defense of himself or another or for a lawful purpose, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) The penalties of this subsection shall not apply to persons licensed under s. 790.06. Persons licensed under s. 790.06 shall be punished as provided in s. 790.06(12), except that a licenseholder who unlawfully discharges a weapon or firearm on school property as prohibited by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to any law enforcement officer as defined in s. 943.10(1), (2), (3), (4), (6), (7), (8), (9), or (14).

Section 20. Section 230.23015, Florida Statutes, 1996 Supplement, is amended to read:

230.23015 Students violating s. 784.081; expulsion or placement in alternative school setting.—Notwithstanding any other provision of law, each district school board shall adopt rules providing that any student found to have committed a violation of s. 784.081(1), (2), or (3) shall be expelled or placed in an alternative school setting or other youth services or justice program, as appropriate for a minimum period of 1 year. Upon being charged with the offense, the student shall be removed from the classroom immediately and placed in an alternative school setting pending disposition.

Section 21. Section 322.0601, Florida Statutes, is repealed.

Section 22. Section 232.433, Florida Statutes, is created to read:

232.433 Safety standards for cheerleaders.—The Florida High School Activities Association or successor organization shall adopt statewide uniform safety standards for student cheerleaders and spirit groups that participate in any school activity or extracurricular student activity. The Florida High School Activities Association or successor organization shall adopt the "Official High School Spirit Rules," published by the National Federation of State High School Associations, as the statewide uniform safety standards.

Section 23. Except as otherwise provided in this act, this act shall take effect July 1, 1997.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to student discipline and school safety; amending s. 232.09, F.S.; creating s. 230.235, F.S.; requiring each school district to adopt a policy of zero tolerance for crime and substance abuse; requiring each school district to enter into an agreement with the sheriff which specifies guidelines for reporting delinquent acts and crimes; requiring that the school principal ensure that delinquent acts and crimes are properly reported and other appropriate action taken; revising provisions relating to student attendance responsibility and policy; creating s. 232.0205, F.S.; requiring certain disclosure at school registration and providing penalties for willful nondisclosure; amending s. 232.01, F.S.; revising compulsory school attendance requirements to require children over age 16 to file a formal declaration of intent to terminate school enrollment in order to be exempt from compulsory school attendance requirements; amending s. 39.01, F.S.; revising provisions regarding habitual truancy; amending s. 228.041, F.S.; revising the definitions of the terms "habitual truant" and "dropout"; amending s. 232.2462, F.S.; conforming provisions; amending s. 414.125, F.S.; providing Learnfare program requirements; amending s. 232.17, F.S.; revising procedures relating to enforcement of school attendance; amending s. 232.19, F.S.; revising penalties and court procedures relating to habitual truancy; requiring each public school principal to notify the district school board of students who accumulate a specified number of unexcused absences; authorizing the governing body of a private school to provide such information to the Department of Education; requiring that the Department of Highway Safety and Motor Vehicles withhold issuance of or suspend the driver's license or learner's driver's license of a student who fails to satisfy school attendance requirements; requiring the Department of Juvenile Justice, the Department of Children and Family Services, and the school districts to develop cooperative agreements for working with habitual truants and their families; providing for court-ordered parent training classes and providing penalties for termination of an employee required to attend such classes, under certain circumstances; authorizing the court to impose civil penalties on, or require participation in community service or counseling by, the child; amending s. 232.195, F.S., relating to truancy activities upon transfer of student, to conform; creating s. 232.197, F.S.; requiring notification to a school of court action directly involving the school; amending s. 232.2452, F.S.; revising requirements relating to student report cards; amending s. 232.25, F.S., relating to pupils subject to control of school; providing for a school child's daily conduct pledge; amending s. 322.05, F.S., relating to the issuance of driver's licenses; conforming provisions to changes made by the act; amending s. 322.09, F.S.; prohibiting the Department of Highway Safety and Motor Vehicles from issuing a driver's license or restricted license to a person under a specified age who does not meet requirements for school attendance and is not otherwise exempt from such requirements; creating s. 322.091, F.S.; providing that a minor is not eligible for driving privileges unless the minor is enrolled in school or a home education program, has received a high school diploma or certificate, is enrolled in certain other educational activities, or obtains a certificate of exemption or hardship waiver; requiring the Department of Highway Safety and Motor Vehicles to notify a minor before the department suspends the minor's driving privileges because of noncompliance with school attendance requirements; providing for a hardship waiver; providing for a hearing before the public school principal or the designee of the governing body of a private school; providing for the department to reinstate a minor's driving privileges following compliance with school attendance requirements for a specified period; requiring the department to report to school districts on students whose driving privileges are suspended; amending s. 39.015, F.S., relating to rule-making regarding habitual truants, to conform to the act; amending s. 790.115, F.S.; expanding offenses that are punishable as possessing or

discharging weapons or firearms on school property and providing a qualifier to an exception from such offense; amending s. 230.23015, F.S.; clarifying provisions relating to students who commit assault or battery on school personnel; repealing s. 322.0601, F.S., relating to driver's licenses for minors; creating s. 232.433, F.S., requiring that the Florida High School Activities Association or successor organization adopt statewide uniform safety standards for student cheerleaders; providing effective dates.

WHEREAS, the primary focus of the 1997 Legislature is education, and

WHEREAS, in the first month of the 1997 session, the Legislature has passed two major components of its education agenda, the first of which raises student academic standards across the board and the second of which provides for better-educated and better-prepared teachers, and

WHEREAS, a third major component of the 1997 legislative education agenda is student discipline and school safety, and

WHEREAS, it is the intent of the Legislature to raise the standards of student discipline and school safety as dramatically as it has raised student academic and teacher certification standards, NOW, THEREFORE,

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

Amendment 1A (with title amendment)—On page 34, between lines 16 and 17, insert:

Section 23. Subsection (8) is added to section 228.057, Florida Statutes, 1996 Supplement, to read:

228.057 Public school parental choice.—

(8) Notwithstanding any provision of this section, a school district with schools operating on both multiple session schedules and single session schedules shall afford parents of students in multiple session schools preferred access to the controlled open enrollment program of the school district.

Section 24. *The intent of sections 25 and 26 of this act is to create a positive and safe learning environment for the children of Florida and to keep disruptive children from affecting the ability of public school students to learn.*

Section 25. Subsection (5) of section 39.045, Florida Statutes, 1996 Supplement, is amended to read:

39.045 Oaths; records; confidential information.—

(5) Except as provided in subsections (3), (8), (9), and (10), and s. 943.053, all information obtained under this part in the discharge of official duty by any judge, any employee of the court, any authorized agent of the Department of Juvenile Justice, the Parole Commission, the Juvenile Justice Advisory Board, the Department of Corrections, the district juvenile justice boards, any law enforcement agent, or any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile is confidential and may be disclosed only to the authorized personnel of the court, the Department of Juvenile Justice and its designees, the Department of Corrections, the Parole Commission, the Juvenile Justice Advisory Board, law enforcement agents, school superintendents and their designees, any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile, and others entitled under this part to receive that information, or upon order of the court. Within each county, the sheriff, the chiefs of police, the district school superintendent, and the department shall enter into an interagency agreement for the purpose of sharing information about juvenile offenders among all parties. The agreement must specify the conditions under which summary criminal history information is to be made available to appropriate school personnel, and the conditions under which school records are to be made available to appropriate department personnel. *Such agreement shall require notification to any classroom teacher of assignment to the teacher's classroom of a juvenile who has been placed in a community control or commitment program for a felony offense.* The agencies entering into such agreement must comply with s. 943.0525, and must maintain the confidentiality of information that is otherwise exempt from s. 119.07(1), as provided by law.

Section 26. *Students on Community Control.*—

(1) *A juvenile on community control who is a public school student must attend a public adult education program or a dropout prevention program, pursuant to s. 230.2316, which includes a second chance school or an alternative to expulsion, if the school district where the juvenile is enrolled offers such programs, unless the principal of the school determines that special circumstances warrant continuation in the regular educational school program.*

(2) *If a juvenile on community control attends a regular educational school program because a public adult education program or dropout prevention program, which includes a second chance school or an alternative to expulsion, is not available in the school district, the identity of the juvenile on community control, the nature of the felony offense committed by the juvenile, and the conditions of community control must be made known to each of the student's teachers.*

(Renumber subsequent sections.)

And the title is amended as follows:

On page 38, line 10, after the semicolon (;) insert: amending s. 228.057, F.S.; requiring school districts with a controlled open enrollment program to afford preferred access to the program to parents of students in multiple session schools; providing intent; amending s. 39.045, F.S., relating to confidential information about juvenile offenders, to provide for disclosure to teachers; requiring a juvenile in a community control program to attend a public adult education program or dropout prevention program if available unless an exception is made by the principal; requiring disclosure of certain information if a juvenile attends a regular educational school program;

Amendment 1 as amended was adopted.

MOTION

On motion by Senator Bankhead, the rules were waived and time of recess was extended until 7:30 p.m. or until consideration of **CS for SB 1398**.

On motion by Senator Turner, by two-thirds vote **CS for HB's 1309, 1143, 847, 697, 1391 and 203** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

DISPOSITION OF POINT OF ORDER

On motion by Senator Campbell, **Amendment 2** to **SB 1008**, with a pending point of order raised by Senator Burt on April 9, was withdrawn. On motion by Senator Bankhead, by two-thirds vote **SB 1008**, as amended on April 9 was ordered engrossed and returned to the Special Order Calendar.

POINT OF PERSONAL PRIVILEGE

The President requested Senator Ostalkiewicz to explain the bouquet of roses on his desk. Senator Ostalkiewicz responded that the flowers were from his wife Cynthia in celebration of their nineteenth wedding anniversary.

SPECIAL ORDER CALENDAR, continued

SENATOR BURT PRESIDING

On motion by Senator Latvala—

CS for SB's 1428, 1388, 1562 and 1252—A bill to be entitled An act relating to water resources; amending s. 373.016, F.S.; revising legislative policy; providing construction and application; amending s. 373.019, F.S.; revising definitions; defining the terms "district water management plan," "Florida water plan," "regional water supply plan," "water resource development," "water resource implementation rule," and "water supply development"; amending s. 373.036, F.S.; eliminating the state water use plan; providing for development of the Florida water plan to include the water resource implementation rule; providing procedure for rule amendment; requiring water management district governing boards to develop district water management plans; creating s. 373.0361, F.S.; providing requirements for regional water supply plans for regions identified in district water management plans; requiring an annual report; amending s. 373.1963, F.S.; providing for assistance to the West Coast Regional Water Supply Authority; providing duties and functions; providing for membership of the authority; amending s. 373.042, F.S.; establishing exclusions from minimum flows and levels requirements; revising minimum flows and levels timing requirements; providing for independent scientific peer review; creating s. 373.0421, F.S.; requiring certain considerations in establishment and implementation of minimum flows and levels; providing for implementation of recovery or prevention strategies; amending s. 373.046, F.S.; providing for interdistrict agreements for implementation of certain regulatory responsibilities; amending s. 373.0693, F.S.; correcting a cross-reference; amending s. 373.073, F.S.; revising procedure for appointment of members to the water management district governing boards; providing a timetable; amending s. 373.079, F.S.; revising procedure for appointment of district executive directors; providing respective authority of the Governor and governing boards; authorizing employment of governing board ombudsmen; revising duties of governing board legal staff; creating s. 373.0831, F.S.; specifying governing board responsibilities for water resource development and responsibilities of other entities for water supply development; providing for priorities for funding; requiring a report; amending s. 373.236, F.S.; revising provisions relating to duration of consumptive use permits; requiring compliance reports and permit modification, under certain circumstances; requiring a proposal for reevaluation of certain areas with contaminated water supplies; amending s. 373.507, F.S.; revising provisions relating to district and basin audits, budgets, and expense reports; requiring districts to furnish copies of documents to specified entities and to respond to comments; amending s. 373.536, F.S.; providing requirements for notice and advertisement of district budget hearings and workshops; providing requirements for budget identification of administrative and operating expenses; providing for certain analysis of budgets; revising requirements for submittal of tentative budgets; amending ss. 186.007, 186.009, 373.103, 373.114, 373.418, 373.456, 403.031, 403.0891, F.S., to conform to the act; repealing ss. 373.026(10), 403.061(33), F.S., relating to state water policy and the Florida water plan; repealing s. 373.0735, F.S., relating to appointment of members to the governing board of the Southwest Florida Water Management District; providing for grandfathering-in of minimum flows and levels for priority waters in Pasco County and Hillsborough County pursuant to provisions of chapter 96-339, Laws of Florida; providing that minimum flows shall not be set for certain water bodies; amending s. 376.307, F.S.; providing that certain persons may be entitled to subsidies or filters from the Water Quality Assurance Trust Fund under certain circumstances; amending s. 373.309, F.S.; authorizing the Department of Environmental Protection to establish criteria for the acceptance of certain water quality testing results; providing legislative findings with respect to the salaries of water management district employees and other state employees; creating Water Management District Employee Compensation Study Commission; providing for membership of the commission; requiring a report; authorizing transportation uses to cross recreational trail under certain circumstances; amending s. 259.032, F.S.; providing for periodic management audits of certain lands; requiring the Department of Environmental Protection to establish a land management review team; providing effective dates.

—was read the second time by title.

An amendment was considered to conform **CS for SB's 1428, 1388, 1562 and 1252** to **CS for HB's 715, 1249, 1321 and 1339**.

Pending further consideration of **CS for SB's 1428, 1388, 1562 and 1252** as amended, on motion by Senator Latvala, by two-thirds vote **CS for HB's 715, 1249, 1321 and 1339** was withdrawn from the Committees on Natural Resources; and Ways and Means.

On motion by Senator Latvala—

CS for HB's 715, 1249, 1321 and 1339—A bill to be entitled An act relating to water resources; amending s. 373.016, F.S.; revising legislative policy; providing construction and application; amending s. 373.019, F.S.; revising definitions; defining “district water management plan,” “Florida water plan,” “regional water supply plan,” “water resource development,” “water resource implementation rule,” and “water supply development;” amending s. 373.036, F.S.; eliminating the state water use plan; providing for development of the Florida water plan, to include the water resource implementation rule; providing procedure for rule amendment; requiring water management district governing boards to develop district water management plans; creating s. 373.0361, F.S.; providing requirements for regional water supply plans for regions identified in district water management plans; requiring an annual report; amending s. 373.042, F.S.; revising minimum flows and levels timing requirements; providing for independent scientific peer review; creating s. 373.0421, F.S.; requiring certain considerations in establishment and implementation of minimum flows and levels; providing for implementation of recovery or prevention strategies; amending s. 373.046, F.S.; providing for interdistrict agreements for implementation of certain regulatory responsibilities; amending s. 373.0693, F.S.; correcting a cross reference; amending s. 373.073, F.S.; revising procedure for appointment of members to the water management district governing boards; providing a timetable; amending s. 373.079, F.S.; requiring the Governor to select a governing board member as chair of the governing board; revising procedure for appointment of district executive directors; providing respective authority of the Governor and governing boards; authorizing employment of governing board ombudsmen; revising duties of governing board legal staff; creating s. 373.0831, F.S.; specifying governing board responsibilities for water resource development and responsibilities of other entities for water supply development; providing for priorities for funding; requiring a report; amending s. 373.223, F.S.; providing requirements in considering authorization to transport ground or surface water under a permit for consumptive use of water; providing restrictions; amending s. 373.236, F.S.; revising provisions relating to duration of consumptive use permits; requiring compliance reports and permit modification, under certain circumstances; requiring a proposal for reevaluation of certain areas with contaminated water supplies; amending s. 373.507, F.S.; revising provisions relating to district and basin audits, budgets, and expense reports; requiring districts to furnish copies of documents to specified entities and to respond to comments; amending s. 373.536, F.S.; providing requirements for notice and advertisement of district budget hearings and workshops; providing requirements for budget identification of administrative and operating expenses; providing for certain analysis of budgets; revising requirements for submittal of tentative budgets; amending s. 373.59, F.S.; deleting obsolete language; correcting a cross reference; authorizing use of interests in property acquired under the Water Management Lands Trust Fund for permissible water resource development and water supply development purposes; amending ss. 186.007, 186.009, 373.103, 373.114, 373.418, 373.456, 403.031, and 403.0891, F.S., to conform to the act; repealing ss. 373.026(10), 373.039, and 403.061(33), F.S., relating to state water policy and the Florida water plan; repealing s. 373.0735, F.S., relating to appointment of members to the governing board of the Southwest Florida Water Management District; providing for grandfathering-in of minimum flows and levels for priority waters in Pasco County and Hillsborough County pursuant to provisions of chapter 96-339, Laws of Florida; providing for application of act to Hillsborough River and the Palm River/Tampa By-Pass Canal; amending s. 373.1963, F.S.; providing for supplemental report from the West Coast Regional Water Supply Authority; providing an effective date.

—a companion measure, was substituted for **CS for SB's 1428, 1388, 1562 and 1252** as amended and read the second time by title.

Senator Latvala moved the following amendment:

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

Section 1. Present subsection (2) of section 373.016, Florida Statutes, is amended, subsections (3) and (4) are renumbered as subsections

(4) and (5), respectively, and a new subsection (2) is added to that section, to read:

373.016 Declaration of policy.—

(2) *The department and the governing board shall take into account cumulative impacts on water resources and manage those resources in a manner to ensure their sustainability.*

(3)(2) It is further declared to be the policy of the Legislature:

(a) To provide for the management of water and related land resources;

(b) To promote the conservation, *replenishment, recapture, enhancement*, development, and proper utilization of surface and ground water;

(c) To develop and regulate dams, impoundments, reservoirs, and other works and to provide water storage for beneficial purposes;

(d) *To promote the availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems;*

(e)(4) To prevent damage from floods, soil erosion, and excessive drainage;

(f)(e) To minimize degradation of water resources caused by the discharge of stormwater;

(g)(4) To preserve natural resources, fish, and wildlife;

(h)(g) To promote the public policy set forth in s. 403.021;

(i)(4) To promote recreational development, protect public lands, and assist in maintaining the navigability of rivers and harbors; and

(j)(4) Otherwise to promote the health, safety, and general welfare of the people of this state.

In implementing this chapter, the department and the governing board shall construe and apply the policies in this subsection as a whole, and no specific policy is to be construed or applied in isolation from the other policies in this subsection.

Section 2. Section 373.019, Florida Statutes, 1996 Supplement, is amended to read:

373.019 Definitions.—When appearing in this chapter or in any rule, regulation, or order adopted pursuant thereto, the following words shall, unless the context clearly indicates otherwise, mean:

(1)(13) “Coastal waters” means waters of the Atlantic Ocean or the Gulf of Mexico within the jurisdiction of the state.

(2)(1) “Department” means the Department of Environmental Protection or its successor agency or agencies.

(3) “*District water management plan*” means the regional water resource plan developed by a governing board under s. 373.036.

(4)(6) “Domestic use” means the use of water for the individual personal household purposes of drinking, bathing, cooking, or sanitation. All other uses shall not be considered domestic.

(5) “*Florida water plan*” means the state-level water resource plan developed by the department under s. 373.036.

(6)(3) “Governing board” means the governing board of a water management district.

(7)(9) “Groundwater” means water beneath the surface of the ground, whether or not flowing through known and definite channels.

(8)(14) “Impoundment” means any lake, reservoir, pond, or other containment of surface water occupying a bed or depression in the earth's surface and having a discernible shoreline.

(9)(18) “Independent scientific peer review” means the review of scientific data, theories, and methodologies by a panel of independent, recognized experts in the fields of hydrology, hydrogeology, limnology,

and other scientific disciplines relevant to the matters being reviewed under s. 373.042.

(10)(7) "Nonregulated use" means any use of water which is exempted from regulation by the provisions of this chapter.

(11)(12) "Other watercourse" means any canal, ditch, or other artificial watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted.

(12)(5) "Person" means any and all persons, natural or artificial, including any individual, firm, association, organization, partnership, business trust, corporation, company, the United States of America, and the state and all political subdivisions, regions, districts, municipalities, and public agencies thereof. The enumeration herein is not intended to be exclusive or exhaustive.

(13)(4) "Reasonable-beneficial use" means the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.

(14) "Regional water supply plan" means a detailed water supply plan developed by a governing board under s. 373.0361.

(15)(11) "Stream" means any river, creek, slough, or natural watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted. The fact that some part of the bed or channel has been dredged or improved does not prevent the watercourse from being a stream.

(16)(10) "Surface water" means water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth's surface.

(17)(8) "Water" or "waters in the state" means any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state.

(18)(2) "Water management district" means any flood control, resource management, or water management district operating under the authority of this chapter.

(19) "Water resource development" means the formulation and implementation of regional water resource management strategies, including the collection and evaluation of surface water and groundwater data; structural and nonstructural programs to protect and manage water resources; the development of regional water resource implementation programs; the construction, operation, and maintenance of major public works facilities to provide for flood control, surface and underground water storage, and groundwater recharge augmentation; and related technical assistance to local governments and to government-owned and privately owned water utilities.

(20)(16) "State Water resource implementation rule policy" means the rule authorized by s. 373.036, which sets comprehensive statewide policy as adopted by the department pursuant to ss. 373.026 and 403.061 setting forth goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The waters of the state are among its most basic resources. Such waters should be managed to conserve and protect water resources and to realize the full beneficial use of these resources.

(21) "Water supply development" means the planning, design, construction, operation, and maintenance of public or private facilities for water collection, production, treatment, transmission, or distribution for sale, resale, or end use.

(22)(17) For the sole purpose of serving as the basis for the unified statewide methodology adopted pursuant to s. 373.421(1), as amended, "wetlands" means those areas that are inundated or saturated by surface water or groundwater at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent

vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto. Upon legislative ratification of the methodology adopted pursuant to s. 373.421(1), as amended, the limitation contained herein regarding the purpose of this definition shall cease to be effective.

(23)(15) "Works of the district" means those projects and works, including, but not limited to, structures, impoundments, wells, streams, and other watercourses, together with the appurtenant facilities and accompanying lands, which have been officially adopted by the governing board of the district as works of the district.

Section 3. Section 373.036, Florida Statutes, is amended to read:

373.036 *Florida water plan; district water management plans State water use plan.* —

(1) *FLORIDA WATER PLAN.*—*In cooperation with the water management districts, regional water supply authorities, and others, the department shall develop the Florida water plan. The Florida water plan shall include, but not be limited to:*

(a) *The programs and activities of the department related to water supply, water quality, flood protection and floodplain management, and natural systems.*

(b) *The water quality standards of the department.*

(c) *The district water management plans.*

(d) *Goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The state water policy rule, renamed the water resource implementation rule pursuant to s. 373.019(20), shall serve as this part of the plan. Amendments or additions to this part of the Florida water plan shall be adopted by the department as part of the water resource implementation rule. In accordance with s. 373.114, the department shall review rules of the water management districts for consistency with this rule. Amendments to the water resource implementation rule must be adopted by the secretary of the department and be submitted to the President of the Senate and the Speaker of the House of Representatives within 7 days after publication in the Florida Administrative Weekly. Amendments shall not become effective until the conclusion of the next regular session of the Legislature following their adoption.*

~~(1) The department shall proceed as rapidly as possible to study existing water resources in the state; means and methods of conserving and augmenting such waters; existing and contemplated needs and uses of water for protection and procreation of fish and wildlife, irrigation, mining, power development, and domestic, municipal, and industrial uses; and all other related subjects, including drainage, reclamation, flood plain or flood hazard area zoning, and selection of reservoir sites. The department shall cooperate with the Executive Office of the Governor, or its successor agency, progressively to formulate, as a functional element of a comprehensive state plan, an integrated, coordinated plan for the use and development of the waters of the state, based on the above studies. This plan, with such amendments, supplements, and additions as may be necessary from time to time, shall be known as the state water use plan.~~

(2) *DISTRICT WATER MANAGEMENT PLANS.*—

(a) *Each governing board shall develop a district water management plan for water resources within its region, which plan addresses water supply, water quality, flood protection and floodplain management, and natural systems. The district water management plan shall be based on at least a 20-year planning period, shall be developed and revised in cooperation with other agencies, regional water supply authorities, units of government, and interested parties, and shall be updated at least once every 5 years. The governing board shall hold a public hearing at least*

30 days in advance of completing the development or revision of the district water management plan.

(b) The district water management plan shall include, but not be limited to:

1. The scientific methodologies for establishing minimum flows and levels under s. 373.042, and all established minimum flows and levels.

2. Identification of one or more water supply planning regions that singly or together encompass the entire district.

3. Technical data and information prepared under ss. 373.0391 and 373.0395.

4. A districtwide water supply assessment, to be completed no later than July 1, 1998, which determines for each water supply planning region:

a. Existing legal uses, reasonably anticipated future needs, and existing and reasonably anticipated sources of water and conservation efforts; and

b. Whether existing and reasonably anticipated sources of water and conservation efforts are adequate to supply water for all existing legal uses and reasonably anticipated future needs and to sustain the water resources and related natural systems.

5. Any completed regional water supply plans.

(c) If necessary for implementation, the governing board shall adopt by rule or order relevant portions of the district water management plan, to the extent of its statutory authority.

(d)(2) In the formulation of the district water management state water use plan, the governing board department shall give due consideration to:

1.(a) The attainment of maximum reasonable-beneficial use of water resources for such purposes as those referred to in subsection (1).

2.(b) The maximum economic development of the water resources consistent with other uses.

3.(c) The management control of water resources such waters for such purposes as environmental protection, drainage, flood control, and water storage.

4.(d) The quantity of water available for application to a reasonable-beneficial use.

5.(e) The prevention of wasteful, uneconomical, impractical, or unreasonable uses of water resources.

6.(f) Presently exercised domestic use and permit rights.

7.(g) The preservation and enhancement of the water quality of the state and the provisions of the state water quality plan.

8.(h) The state water resources policy as expressed by this chapter.

(3) During the process of formulating or revising the state water use plan, the department shall consult with, and carefully evaluate the recommendations of, concerned federal, state, and local agencies, particularly the governing boards of the water management districts, and other interested persons.

(4) Each governing board is directed to cooperate with the department in conducting surveys and investigations of water resources, to furnish the department with all available data of a technical nature, and to advise and assist the department in the formulation and drafting of those portions of the state plan applicable to the district.

(5) The department shall not adopt or modify the state water use plan or any portion thereof without first holding a public hearing on the matter. At least 90 days in advance of such hearing, the department shall notify any affected governing boards, and shall give notice of such hearing by publication within the affected region pursuant to the provisions of chapter 120, except such notice by publication shall be extended at least 90 days in advance of such hearings.

(6) For the purposes of this plan the department may, in consultation with the affected governing board, divide each water management district into sections which shall conform as nearly as practicable to hydrologically controllable areas and describe all water resources within each area.

(3)(7) The department and governing board shall give careful consideration to the requirements of public recreation and to the protection and procreation of fish and wildlife. The department or governing board may prohibit or restrict other future uses on certain designated bodies of water which may be inconsistent with these objectives.

(4)(8) The governing board department may designate certain uses in connection with a particular source of supply which, because of the nature of the activity or the amount of water required, would constitute an undesirable use for which the governing board may deny a permit.

(5)(9) The governing board department may designate certain uses in connection with a particular source of supply which, because of the nature of the activity or the amount of water required, would result in an enhancement or improvement of the water resources of the area. Such uses shall be preferred over other uses in the event of competing applications under the permitting systems authorized by this chapter.

(6)(10) The department, in cooperation with the Executive Office of the Governor, or its successor agency, may add to the Florida water state water use plan any other information, directions, or objectives it deems necessary or desirable for the guidance of the governing boards or other agencies in the administration and enforcement of this chapter.

Section 4. Section 373.0361, Florida Statutes, is created to read:

373.0361 Regional water supply planning.—

(1) By October 1, 1998, the governing board shall initiate water supply planning for each water supply planning region identified in the district water management plan under s. 373.036, where it determines that sources of water are not adequate for the planning period to supply water for all existing and projected reasonable-beneficial uses and to sustain the water resources and related natural systems. The planning must be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities, government-owned and privately owned water utilities, self-suppliers, and other affected and interested parties. A determination by the governing board that initiation of a regional water supply plan for a specific planning region is not needed pursuant to this section shall be subject to s. 120.569. The governing board shall re-evaluate such a determination at least once every five years and shall initiate a regional water supply plan, if needed, pursuant to this subsection.

(2) Each regional water supply plan shall be based on at least a 20-year planning period and shall include, but not be limited to:

(a) A water supply development component that includes:

1. A quantification of the water supply needs for all existing and reasonably projected future uses within the planning horizon. The level-of-certainty planning goal associated with identifying the water supply needs of existing and future reasonable-beneficial uses shall be based upon meeting those needs for a 1-in-10 year drought event.

2. A list of water source options for water supply development, including traditional and alternative sources, from which local government, government-owned and privately owned utilities, self-suppliers, and others may choose, which will exceed the needs identified in subparagraph 1.

3. For each option listed in subparagraph 2., the estimated amount of water available for use and the estimated costs of and potential sources of funding for water supply development.

4. A list of water supply development projects that meet the criteria in s. 373.0831(4).

(b) A water resource development component that includes:

1. A listing of those water resource development projects that support water supply development.

2. For each water resource development project listed:
- a. An estimate of the amount of water to become available through the project.
 - b. The timetable for implementing or constructing the project and the estimated costs for implementing, operating, and maintaining the project.
 - c. Sources of funding and funding needs.
 - d. Who will implement the project and how it will be implemented.
- (c) The recovery and prevention strategy described in s. 373.0421(2).
- (d) A funding strategy for water resource development projects, which shall be reasonable and sufficient to pay the cost of constructing or implementing all of the listed projects.
- (e) Consideration of how the options addressed in paragraphs (a) and (b) serve the public interest or save costs overall by preventing the loss of natural resources or avoiding greater future expenditures for water resource development or water supply development. However, unless adopted by rule, these considerations do not constitute final agency action.
- (f) The technical data and information applicable to the planning region which are contained in the district water management plan and are necessary to support the regional water supply plan.
- (g) The minimum flows and levels established for water resources within the planning region.
- (3) Regional water supply plans initiated or completed by July 1, 1997, shall be revised, if necessary, to include a water supply development component and a water resource development component as described in paragraphs (2)(a) and (b).
- (4) Governing board approval of a regional water supply plan shall not be subject to the rulemaking requirements of Chapter 120. However, any portion of an approved regional water supply plan which affects the substantial interests of a party shall be subject to s. 120.569.
- (5) By November 15, 1997, and annually thereafter, the department shall submit to the Governor and the Legislature a report on the status of regional water supply planning in each district. The report shall include:
- (a) A compilation of the estimated costs of and potential sources of funding for water resource development and water supply development projects, as identified in the water management district regional water supply plans.
 - (b) A description of each district's progress toward achieving its water resource development objectives, as directed by s. 373.0831(3), including the district's implementation of its 5-year water resource development work program.
 - (6) Nothing contained in the water supply development component of the district water management plan shall be construed to require local governments, government-owned or privately owned water utilities, self-suppliers, or other water suppliers to select a water supply development option identified in the component merely because it is identified in the plan. However, this subsection shall not be construed to limit the authority of the department or governing board under part II.

Section 5. Section 373.042, Florida Statutes, 1996 Supplement, is amended to read:

373.042 Minimum flows and levels.—

(1) Within each section, or the water management district as a whole, the department or the governing board shall establish the following:

(a) Minimum flow for all surface watercourses in the area. The minimum flow for a given watercourse shall be the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.

(b) Minimum water level. The minimum water level shall be the level of groundwater in an aquifer and the level of surface water at which further withdrawals would be significantly harmful to the water resources of the area.

The minimum flow and minimum water level shall be calculated by the department and the governing board using the best information available. When appropriate, minimum flows and levels may be calculated to reflect seasonal variations. The department and the governing board shall also consider, and at their discretion may provide for, the protection of nonconsumptive uses in the establishment of minimum flows and levels.

(2) By July 1, 1996, the Southwest Florida Water Management District shall amend and submit to the department for review and approval its priority list for the establishment of minimum flows and levels and delineating the order in which the governing board shall establish the minimum flows and levels for surface watercourses, aquifers, and surface water in the counties of Hillsborough, Pasco, and Pinellas. By November 15, 1997, and annually thereafter, each water management district shall submit to the department for review and approval a priority list and schedule for the establishment of minimum flows and levels for surface watercourses, aquifers, and surface waters within the district. The priority list shall also identify those water bodies for which the district will voluntarily undertake independent scientific peer review. By January 1, 1998, and annually thereafter, each water management district shall publish its approved priority list and schedule in the Florida Administrative Weekly. The priority list shall be based upon the importance of the waters to the state or region and the existence of or potential for significant harm to the water resources or ecology of the state or region, and shall include those waters which are experiencing or may reasonably be expected to experience experiencing adverse impacts and those waters which are identified as possible new water supply sources proposing to withdraw 5 million gallons or more per day in the future. The development of the priority list and schedule shall not be subject to any constitute a point of entry to an administrative proceeding pursuant to chapter 120. Except as provided in subsection (3), the development of a priority list and compliance with the schedule for the establishment of minimum flows and levels pursuant to this subsection shall satisfy the requirements of subsection (1).

(3) Minimum flows or levels for priority waters in the Counties of Hillsborough, Pasco, and Pinellas subsection (2) shall be established by October 1, 1997. Where a minimum flow or level for the priority waters within those counties has not been established by the applicable deadline, the secretary of the department shall, if requested by the governing body of any local government within whose jurisdiction the affected waters are located, establish the minimum flow or level flows and levels in accordance with the procedures established by this section. The department's reasonable costs in establishing a minimum flow or level shall, upon request of the secretary, be reimbursed by the applicable district.

(4)(a) Upon written request to the department or governing board by a substantially affected person, or by decision of the department or governing board, prior to the establishment of a minimum flow or level and prior to the filing of any petition for administrative hearing related to the minimum flow or level, all scientific or technical data, methodologies, and models, including all scientific and technical assumptions employed in each model, used to establish a minimum flow or level shall be subject to independent scientific peer review. Independent scientific peer review means review by a panel of independent, recognized experts in the fields of hydrology, hydrogeology, limnology, biology, and other scientific disciplines, to the extent relevant to the establishment of the minimum flow or level.

(b) If independent scientific peer review is requested, it shall be initiated at an appropriate point agreed upon by the department or governing board and the person or persons requesting the peer review. If no agreement is reached, the department or governing board shall determine the appropriate point at which to initiate peer review. The members of the peer review panel shall be selected within 60 days of the point of initiation by agreement of the department or governing board and the person or persons requesting the peer review. If the panel is not selected within the 60-day period, the time limitation may be waived upon the agreement of all parties. If no waiver occurs, the department or governing board may proceed to select the peer review panel. The cost of the peer review shall be borne equally by the district and each party requesting the peer review, to the extent economically feasible. The panel shall submit a final report

to the governing board within 120 days after its selection unless the deadline is waived by agreement of all parties. Initiation of peer review pursuant to this paragraph shall toll any applicable deadline under chapter 120 or other law or district rule regarding permitting, rulemaking, or administrative hearings, until 60 days following submittal of the final report. Any such deadlines shall also be tolled for 60 days following withdrawal of the request or following agreement of the parties that peer review will no longer be pursued. The department or the governing board shall give significant weight to the final report of the peer review panel when establishing the minimum flow or level.

(c) If the final data, methodologies, and models, including all scientific and technical assumptions employed in each model upon which a minimum flow or level is based, have undergone peer review pursuant to this subsection, by request or by decision of the department or governing board, no further peer review shall be required with respect to that minimum flow or level.

(d) No minimum flow or level adopted by rule or formally noticed for adoption on or before May 2, 1997, shall be subject to the peer review provided for in this subsection. Prior to the establishment of minimum flows or levels for water resources areas identified in subsection (2), and prior to filing any petition for administrative hearing, scientific or technical data and methodologies, if in dispute, shall, upon written request to the governing board by a substantially affected person, be subject to independent scientific peer review. The members of the peer review panel shall be selected by agreement of the parties in interest within 60 days after receipt of the request. In the event the panel is not selected within this time, then, upon the agreement of all parties, the time may be waived, or, if no waiver occurs, the governing board may proceed to establish the minimum flows and levels. The cost of the peer review shall be borne equally by the parties selecting the panel, to the extent economically feasible. The panel shall conduct at least one public meeting of the full panel in accordance with s. 286.011(1) and (6) prior to the submission of the final report. The panel shall submit a final report to the governing board within 120 days after selection. Upon request by all members of the panel and agreement of the parties, the time for submittal may be extended for up to 30 additional days. In the event the final report is not submitted within such time, the governing board may proceed to establish the minimum flows and levels pursuant to this section. Filing of a request shall toll any applicable deadline under chapter 120, or other law or district rule, until 60 days following submittal of the final report. Any such deadlines shall also be tolled for 60 days following the withdrawal of the request, agreement of the parties that peer review will no longer be pursued, or failure to meet any deadline set forth in this subsection. If the selection of the panel is subject to the requirements of chapter 287, then the panel shall submit its final report to the governing board within 120 days after the completion of the process required pursuant to chapter 287. The governing board shall give significant weight to the final report of the panel in establishing the minimum flow or level, as appropriate. The final report may also be entered into the record by any party to the proceeding in which the minimum flow or level is applicable.

(5) If a petition for administrative hearing is filed under chapter 120 challenging the establishment of a the minimum flow or level flows or levels, the report of an the independent scientific peer review conducted under subsection (4) is admissible as evidence in the final hearing, and the administrative law judge hearing officer must render the order within 120 days after the filing of the petition. The time limit for rendering the an order shall not be extended except by agreement of all the parties. To the extent that the parties agree to the findings of the peer review, they may stipulate that those findings be incorporated as findings of fact in the final order.

Section 6. Section 373.0421, Florida Statutes, is created to read:

373.0421 Establishment and implementation of minimum flows and levels.—

(1) ESTABLISHMENT.—

(a) When establishing minimum flows and levels pursuant to s. 373.042, the department or governing board shall consider changes and structural alterations to watersheds, surface waters, and aquifers and the effects such changes or alterations have had, and the constraints such changes or alterations have placed, on the hydrology of an affected watershed, surface water, or aquifer, provided that nothing in this paragraph

shall allow significant harm as provided by s. 373.042(1) caused by withdrawals.

(b) Exclusions.—

1. The Legislature recognizes that certain water bodies no longer serve their historical hydrologic functions. The Legislature also recognizes that recovery of these water bodies to historical hydrologic conditions may not be economically or technically feasible, and that such recovery effort could cause adverse environmental or hydrologic impacts. Accordingly, the department or governing board may determine that setting a minimum flow or level for such a water body based on its historical condition is not appropriate.

2. The department or the governing board is not required to establish minimum flows or levels pursuant to s. 373.042 for surface water bodies less than 25 acres in area, unless the water body or bodies, individually or cumulatively, have significant economic, environmental, or hydrologic value.

3. The department or the governing board shall not set minimum flows or levels pursuant to s. 373.042 for surface water bodies constructed prior to the requirement for a permit, or pursuant to an exemption, a permit, or a reclamation plan which regulates the size, depth, or function of the surface water body under the provisions of chapter 373, chapter 378, or chapter 403, unless the constructed surface water body is of significant hydrologic value or is an essential element of the water resources of the area.

The exclusions of subparagraphs 2 and 3 shall not apply to the Everglades Protection Area, as defined in s. 373.4592(2)(h).

(2) If the existing flow or level in a water body is below, or is projected to fall within 20 years below, the applicable minimum flow or level established pursuant to s. 373.042, the department or governing board, as part of the regional water supply plan described in s. 373.0361, shall expeditiously implement a recovery or prevention strategy, which includes the development of additional water supplies and other actions, consistent with the authority granted by this chapter, to:

(a) Achieve recovery to the established minimum flow or level as soon as practicable; or

(b) Prevent the existing flow or level from falling below the established minimum flow or level.

The recovery or prevention strategy shall include phasing or a timetable which will allow for the provision of sufficient water supplies for all existing and projected reasonable-beneficial uses, including development of additional water supplies and implementation of conservation and other efficiency measures concurrent with to the extent practical, and to offset, reductions in permitted withdrawals, consistent with the provisions of this chapter.

(3) The provisions of this section are supplemental to any other specific requirements or authority provided by law. Minimum flows and levels shall be reevaluated periodically and revised as needed.

Section 7. Subsection (6) is added to section 373.046, Florida Statutes, 1996 Supplement, to read:

373.046 Interagency agreements.—

(6) When the geographic area of a project or local government crosses water management district boundaries, the affected districts may designate a single affected district by interagency agreement to implement in that area, under the rules of the designated district, all or part of the applicable regulatory responsibilities under chapter 373. Interagency agreements entered into under this subsection which apply to the geographic area of a local government must have the concurrence of the affected local government. The application under this subsection, by rule, of any existing district rule that was adopted or formally noticed for adoption on or before May 11, 1995, is not subject to s. 70.001.

Section 8. Paragraph (a) of subsection (8) of section 373.0693, Florida Statutes, is amended to read:

373.0693 Basins; basin boards.—

(8)(a) At 11:59 p.m. on June 30, 1988, the area transferred from the Southwest Florida Water Management District to the St. Johns River

Water Management District by change of boundaries pursuant to chapter 76-243, Laws of Florida, shall cease to be a subdistrict or basin of the St. Johns River Water Management District known as the Oklawaha River Basin and said Oklawaha River Basin shall cease to exist. However, any recognition of an Oklawaha River Basin or an Oklawaha River Hydrologic Basin for regulatory purposes shall be unaffected. The area formerly known as the Oklawaha River Basin shall continue to be part of the St. Johns River Water Management District. There shall be established by the governing board of the St. Johns River Water Management District the Oklawaha River Basin Advisory Council to receive public input and advise the St. Johns River Water Management District's governing board on water management issues affecting the Oklawaha River Basin. The Oklawaha River Basin Advisory Council shall be appointed by action of the St. Johns River Water Management District's governing board and shall include one representative from each county which is wholly or partly included in the Oklawaha River Basin. The St. Johns River Water Management District's governing board member currently serving pursuant to s. 373.073(2)(c)3. ~~373.073(1)(b)3.e.~~, shall serve as chair of the Oklawaha River Basin Advisory Council. Members of the Oklawaha River Basin Advisory Council shall receive no compensation for their services but are entitled to be reimbursed for per diem and travel expenses as provided in s. 112.061.

Section 9. Section 373.073, Florida Statutes, is amended to read:

373.073 Governing board.—

(1)(a) The governing board of each water management district shall be composed of 9 members who shall reside within the district, except that the Southwest Florida Water Management District shall be composed of 11 members who shall reside within the district. *Members of the governing boards shall be appointed by the Governor, subject to confirmation by the Senate at the next regular session of the Legislature, and the refusal or failure of the Senate to confirm an appointment creates a vacancy in the office to which the appointment was made. The term of office for a governing board member is 4 years and commences on March 2 of the year in which the appointment is made and terminates on March 1 of the 4th calendar year of the term. Terms of office of governing board members shall be staggered to help maintain consistency and continuity in the exercise of governing board duties and to minimize disruption in district operations. The term of office of members of the board shall be 4 years and shall be construed to commence on March 2 preceding the date of appointment and to terminate March 1 of the year of the end of a term. Members of the governing boards continued under this chapter shall be appointed from the district at large as vacancies occur on the governing boards. Such vacancies shall be filled according to the residency requirements of paragraph (b).*

(b) *Commencing January 1, 1999, the Governor shall appoint the following number of governing board members in each year of the Governor's 4-year term of office:*

1. *In the first year of the Governor's term of office, the Governor shall appoint three members to the governing board of each district.*

2. *In the second year of the Governor's term of office, the Governor shall appoint three members to the governing board of the Southwest Florida Water Management District and two members to the governing board of each other district.*

3. *In the third year of the Governor's term of office, the Governor shall appoint three members to the governing board of the Southwest Florida Water Management District and two members to the governing board of each other district.*

4. *In the fourth year of the Governor's term of office, the Governor shall appoint two members to the governing board of each district.*

For any governing board vacancy that occurs before the date scheduled for the office to be filled under this paragraph, the Governor shall appoint a person meeting residency requirements of subsection (2) for a term that will expire on the date scheduled for the term of that office to terminate under this subsection. In addition to the residency requirements for the governing boards as provided by subsection (2), the Governor shall consider appointing governing board members to represent an equitable cross-section of regional interests and technical expertise.

(2)(b) *Membership on governing boards shall be selected from candidates who have significant experience in one or more of the following*

areas, including, but not limited to: agriculture, the development industry, local government, government-owned or privately-owned water utilities, law, civil engineering, environmental science, hydrology, accounting, or financial businesses. Notwithstanding the provisions of any other general or special law to the contrary, vacancies in the governing boards of the water management districts shall be filled according to the following residency requirements, representing areas designated by the United States Water Resources Council in United States Geological Survey, River Basin and Hydrological Unit Map of Florida—1975, Map Series No. 72:

(a) Northwest Florida Water Management District:

1.a. *One member shall reside in the area generally designated as the "Perdido River Basin-Perdido Bay Coastal Area-Lower Conecuh River-Escambia River Basin" hydrologic units and that portion of the "Escambia Bay Coastal Area" hydrologic unit which lies west of Pensacola Bay and Escambia Bay.*

2.b. *One member shall reside in the area generally designated as the "Blackwater River Basin-Yellow River Basin-Choctawhatchee Bay Coastal Area" hydrologic units and that portion of the "Escambia Bay Coastal Area" hydrologic unit which lies east of Pensacola Bay and Escambia Bay.*

3.e. *One member shall reside in the area generally designated as the "Choctawhatchee River Basin-St. Andrews Bay Coastal Area" hydrologic units.*

4.d. *One member shall reside in the area generally designated as the "Lower Chattahoochee-Apalachicola River-Chipola River Basin-Coastal Area between Ochlockonee River Apalachicola Rivers-Apalachicola Bay coastal area and offshore islands" hydrologic units.*

5.e. *One member shall reside in the area generally designated as the "Ochlockonee River Basin-St. Marks and Wakulla Rivers and coastal area between Aucilla and Ochlockonee River Basin" hydrologic units.*

6.f. *Four members shall be appointed at large, except that no county shall have more than two members on the governing board.*

(b) Suwannee River Water Management District:

1.a. *One member shall reside in the area generally designated as the "Aucilla River Basin" hydrologic unit.*

2.b. *One member shall reside in the area generally designated as the "Coastal Area between Suwannee and Aucilla Rivers" hydrologic unit.*

3.e. *One member shall reside in the area generally designated as the "Withlacoochee River Basin-Alapaha River Basin-Suwannee River Basin above the Withlacoochee River" hydrologic units.*

4.d. *One member shall reside in the area generally designated as the "Suwannee River Basin below the Withlacoochee River excluding the Santa Fe River Basin" hydrologic unit.*

5.e. *One member shall reside in the area generally designated as the "Santa Fe Basin-Waccasassa River and coastal area between Withlacoochee and Suwannee River" hydrologic units.*

6.f. *Four members shall be appointed at large, except that no county shall have more than two members on the governing board.*

(c) St. Johns River Water Management District:

1.a. *One member shall reside in the area generally designated as the "St. Mary River Basin-Coastal area between St. Marys and St. Johns Rivers" hydrologic units.*

2.b. *One member shall reside in the area generally designated as the "St. Johns River Basin below Oklawaha River-Coastal area between the St. Johns River and Ponce de Leon Inlet" hydrologic units.*

3.e. *One member shall reside in the area generally designated as the "Oklawaha River Basin" hydrologic unit.*

4.d. *One member shall reside in the area generally designated as the "St. Johns River Basin above the Oklawaha River" hydrologic unit.*

5.e. One member shall reside in the area generally designated as the "Coastal area between Ponce de Leon Inlet and Sebastian Inlet-Coastal area Sebastian Inlet to St. Lucie River" hydrologic units.

6.f. Four members shall be appointed at large, except that no county shall have more than two members on the governing board.

(d)4. South Florida Water Management District:

1.a. Two members shall reside in Dade County.

2.b. One member shall reside in Broward County.

3.e. One member shall reside in Palm Beach County.

4.d. One member shall reside in Collier County, Lee County, Hendry County, or Charlotte County.

5.e. One member shall reside in Glades County, Okeechobee County, Highlands County, Polk County, Orange County, or Osceola County.

6.f. Two members, appointed at large, shall reside in an area consisting of St. Lucie, Martin, Palm Beach, Broward, Dade, and Monroe Counties.

7.g. One member, appointed at large, shall reside in an area consisting of Collier, Lee, Charlotte, Hendry, Glades, Osceola, Okeechobee, Polk, Highlands, and Orange Counties.

8.h. No county shall have more than three members on the governing board.

(e)5. Southwest Florida Water Management District:

1.a. Two members shall reside in Hillsborough County.

2.b. One member shall reside in the area consisting of Hillsborough and Pinellas Counties.

3.e. Two members shall reside in Pinellas County.

4.d. One member shall reside in Manatee County.

5.e. One member shall reside in Polk County.

6.f. One member shall reside in Pasco County.

7.g. One member shall be appointed at large from Levy, Marion, Citrus, Sumter, Hernando, and Lake Counties.

8.h. One member shall be appointed at large from Sarasota, Hardee, DeSoto, Charlotte, and Highlands Counties.

9.i. One member shall be appointed at large from Levy, Marion, Citrus, Sumter, Hernando, Lake, Sarasota, Hardee, DeSoto, Charlotte, and Highlands Counties.

No county described in subparagraph 7., subparagraph 8., or subparagraph 9. sub-subparagraphs g., h., or i. shall have more than one member on the governing board.

~~(2) Members of the governing boards shall be appointed by the Governor, subject to confirmation by the Senate at the next regular session of the Legislature, and the refusal or failure of the Senate to confirm an appointment shall create a vacancy in the office to which the appointment was made.~~

Section 10. Subsection (2), paragraph (a) of subsection (4), and subsection (5) of section 373.079, Florida Statutes, are amended to read:

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

(2) Immediately after their appointment, and every 2 years thereafter, the Governor shall select a member of the governing board as chair of the board, who shall also be subject to approval by a majority of the members of the Florida Cabinet. Subsequently, members composing the governing board shall meet at some convenient place and choose one of their number as chair of the board, and some suitable person, who may or may not be a member of the governing board, and who may be required to execute bond for the faithful performance of his or her duties as the governing board may determine, as secretary. Such board shall

adopt a seal with a suitable device and shall keep a well-bound book entitled, in effect, "Record of Governing Board of . . . District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts, which book shall at reasonable times be open to the inspection of any citizen of this state or taxpayer in the district or his or her agent or attorney.

(4)(a) The governing board of the district is authorized to employ an executive director, *ombudsman*, and such engineers, other professional persons, and other personnel and assistants as it deems necessary and under such terms and conditions as it may determine and to terminate such employment. The appointment of an executive director by the governing board is subject to approval by the Governor and must be initially confirmed by the Florida Senate. The governing board may delegate all or part of its authority under this paragraph to the executive director. *The executive director must be confirmed by the Senate upon employment and must be confirmed or reconfirmed by the Senate during the regular session of the Legislature following a gubernatorial election.*

(5) The governing board may employ a legal staff for the purposes of:

(a) Providing legal counsel to the governing board on matters relating to the exercise of its powers and duties and to the executive director and district staff on matters relating to the day-to-day operations of the district;

(b) Representing it in all proceedings of an administrative or judicial nature; and

(c) Otherwise assisting in the administration of the provisions of this chapter.

Attorneys employed by the district must represent the legal interest or position of the governing board.

Section 11. Section 373.0831, Florida Statutes, is created to read:

373.0831 *Water resource development; water supply development.—*

(1) *The Legislature finds that:*

(a) *The proper role of the water management districts in water supply is primarily planning and water resource development, but this does not preclude them from providing assistance with water supply development.*

(b) *The proper role of local government, regional water supply authorities, and government-owned and privately owned water utilities in water supply is primarily water supply development, but this does not preclude them from providing assistance with water resource development.*

(c) *Water resource development and water supply development must receive priority attention, where needed, to increase the availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems.*

(2) *It is the intent of the Legislature that:*

(a) *Sufficient water be available for all existing and future reasonable-beneficial uses and the natural systems, and that the adverse effects of competition for water supplies be avoided.*

(b) *Water management districts take the lead in identifying and implementing water resource development projects, and be responsible for securing necessary funding for regionally significant water resource development projects.*

(c) *Local governments, regional water supply authorities, and government-owned and privately owned water utilities take the lead in securing funds for and implementing water supply development projects. Generally, direct beneficiaries of water supply development projects should pay the costs of the projects from which they benefit, and water supply development projects should continue to be paid for through local funding sources.*

(d) *Water supply development be conducted in coordination with water management district regional water supply planning and water resource development.*

(3) *The water management districts shall fund and implement water resource development as defined in s. 373.019. Each governing board*

shall include in its annual budget the amount needed for the fiscal year to implement water resource development projects, as prioritized in its regional water supply plans.

(4)(a) Water supply development projects which are consistent with the relevant regional water supply plans and which meet one or more of the following criteria shall receive priority consideration for state or water management district funding assistance:

1. The project supports establishment of a dependable, sustainable supply of water which is not otherwise financially feasible;
2. The project provides substantial environmental benefits by preventing or limiting adverse water resource impacts, but require funding assistance to be economically competitive with other options; or
3. The project significantly implements reuse, storage, recharge, or conservation of water in a manner that contributes to the sustainability of regional water sources.

(b) Water supply development projects which meet the criteria in paragraph (a) and also bring about replacement of existing sources in order to help implement a minimum flow or level shall be given first consideration for state or water management district funding assistance.

Section 12. Section 373.236, Florida Statutes, is amended to read:

373.236 Duration of permits.—

(1) Permits shall may be granted for a any period of time not exceeding 20 years, if requested for that period of time, if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit; otherwise permits may be issued for shorter durations which reflect the period for which such reasonable assurances can be provided. The governing board or the department may base the duration of permits on a reasonable system of classification according to source of supply or type of use, or both.

(2) The governing board or the department may authorize a permit of duration of up to 50 years in the case of a municipality or other governmental body or of a public works or public service corporation where such a period is required to provide for the retirement of bonds for the construction of waterworks and waste disposal facilities.

(3) Where necessary to maintain reasonable assurance that the conditions for issuance of a 20-year permit can continue to be met, the governing board or department, in addition to any conditions required pursuant to s. 373.219, may require a compliance report by the permittee every 5 years during the term of a permit. This report shall contain sufficient data to maintain reasonable assurance that the initial conditions for permit issuance are met. Following review of this report, the governing board or the department may modify the permit to ensure that the use meets the conditions for issuance. Permit modifications pursuant to this subsection shall not be subject to competing applications, provided there is no increase in the permitted allocation or permit duration, and no change in source, except for changes in source requested by the district. This subsection shall not be construed to limit the existing authority of the department or the governing board to modify or revoke a consumptive use permit.

Section 13. By January 1, 1998, the Department of Environmental Protection, in coordination with the appropriate water management districts and the Department of Health, shall transmit to the Speaker of the House of Representatives, the President of the Senate, and the Governor a proposal for reevaluating areas of the state which were previously delineated by the Department of Environmental Protection pursuant to s. 376.309(1)(e), Florida Statutes, as having contaminated water supplies, including contamination from ethylene dibromide, in order to ascertain whether or not the contamination has been reduced to levels which do not pose a threat to human health and to determine if the delineated areas should be redrawn or removed. The proposal shall reflect a systematic approach to the reevaluation, with an emphasis on determining the current state of contamination, potential remedies, the adequacy of existing remedies such as requirements for grouting of well-casing, and relief to affected citizens. The proposal shall also include estimates of cost and recommendations as to available funding sources for the reevaluation. Any deletion from, addition to, or redrawing of the delineation areas shall be based on the scientific evidence of the reevaluation conducted under this subparagraph.

Section 14. Effective October 1, 1997, section 373.507, Florida Statutes, is amended to read:

373.507 Districts and basins; postaudits, budgets, basins, and taxing authorities; budget and expense reports; audits.—

(1) Each ~~district and~~ basin referred to in this chapter must shall furnish a detailed copy of its budget and past year's expenditures to the Governor, the Legislature, and the governing body of each county in which the ~~district or~~ basin has jurisdiction or derives any funds for the operations of the ~~district or~~ basin.

(2) Each ~~district and~~ basin referred to in this chapter must, ~~basin, and taxing authority shall~~ make provision for an annual postaudit of its financial accounts. The postaudit must These postaudits shall be made in accordance with the rules of the Auditor General adopted under promulgated pursuant to ss. 166.241 and 11.47.

(3)(a) Each district referred to in this chapter must furnish copies of the following documents to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees with substantive or fiscal jurisdiction over districts, as determined by the President or Speaker as applicable, the secretary of the department, and the governing body of each county in which the district has jurisdiction or derives any funds for the operations of the district:

1. The tentative budget.
2. The adopted budget.
3. The past year's expenditures.
4. The postaudit described in subsection (2).

(b) The documents must be furnished by the earlier of 10 days following completion of each document or as otherwise provided by law.

(c) If any entity in paragraph (a) provides written comments to the district regarding any document furnished, the district must respond to the comments in writing and furnish copies of the comments and written responses to the other entities.

Section 15. Effective October 1, 1997, subsections (1) and (3), and paragraphs (a) and (c) of subsection (5), of section 373.536, Florida Statutes, 1996 Supplement, are amended to read:

373.536 District budget and hearing thereon.—

(1) The fiscal year of districts created under the provisions of this chapter shall extend from October 1 of one year through September 30 of the following year. The budget officer of the district shall, on or before July 15 of each year, submit for consideration by the governing board of the district a tentative budget for the district covering its proposed operation and requirements for the ensuing fiscal year. Unless alternative notice requirements are otherwise provided by law, notice of all budget hearings conducted by the governing board or district staff must be published in a newspaper of general circulation in each county in which the district lies not less than 5 days nor more than 15 days before the hearing. Budget workshops conducted for the public and not governed by s. 200.065 must be advertised in a newspaper of general circulation in the community or area in which the workshop will occur not less than 5 days nor more than 15 days before the workshop. The tentative budget shall be adopted in accordance with the provisions of s. 200.065; however, if the mailing of the notice of proposed property taxes is delayed beyond September 3 in any county in which the district lies, the district shall advertise its intention to adopt a tentative budget and millage rate, pursuant to s. 200.065(3)(g), in a newspaper of general paid circulation in that county. The budget shall set forth, classified by object and purpose, and by fund if so designated, the proposed expenditures of the district for bonds or other debt, for construction, for acquisition of land, for operation and maintenance of the district works, for the conduct of the affairs of the district generally, and for other purposes, to which may be added an amount to be held as a reserve. District administrative and operating expenses must be identified in the budget and allocated among district programs.

(3) As provided in s. 200.065(2)(d), the board shall publish one or more notices of its intention to finally adopt a budget for the district for

the ensuing fiscal year. The notice shall appear adjacent to an advertisement which shall set forth the tentative budget in full. The notice and advertisement shall be published in one or more newspapers having a combined general circulation in the counties having land in the district. Districts may include explanatory phrases and examples in budget advertisements published under s. 200.065 to clarify or illustrate the effect that the district budget may have on ad valorem taxes.

(5)(a) The Executive Office of the Governor is authorized to approve or disapprove, in whole or in part, the budget of each water management district and shall analyze each budget as to the adequacy of fiscal resources available to the district and the adequacy of district expenditures related to water supply, including water resource development projects identified in the district's regional water supply plans; water quality; flood protection and floodplain management; and natural systems. This analysis shall be based on the particular needs within each water management district in those four areas of responsibility.

(c) Each water management district shall, by August 15 of each year, submit for review a tentative budget to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees with substantive or fiscal jurisdiction over water management districts, the secretary of the department, and the governing body of each county in which the district has jurisdiction or derives any funds for the operations of the district. The tentative budget, which must include to the Department of Environmental Protection, the Executive Office of the Governor, and the chairs of the appropriations committees of the Legislature for review a tentative budget that includes, but is not limited to, the following information for the preceding fiscal year and the current fiscal year, and the proposed amounts for the upcoming fiscal year, in a standard format prescribed by the Executive Office of the Governor department which is generally consistent with the format prescribed by legislative budget instructions for state agencies and the format requirements of s. 216.031:

1. The millage rates and the percentage increase above the rolled-back rate, together with a summary of the reasons the increase is required, and the percentage increase in taxable value resulting from new construction;

2. For each program area, The salary and benefits, expenses, operating capital outlay, number of authorized positions, and other personal services for the following program areas, including a separate section for lobbying, intergovernmental relations, and advertising;

- a. District management and administration;
- b. Implementation through outreach activities;
- c. Implementation through regulation;
- d. Implementation through acquisition, restoration, and public works;
- e. Implementation through operations and maintenance of lands and works;
- f. Water resources planning and monitoring; and
- g. A full description and accounting of expenditures for lobbying activities relating to local, regional, state, and federal governmental affairs, whether incurred by district staff or through contractual services and all expenditures for public relations, including all expenditures for public service announcements and advertising in any media.

In addition to the program areas reported by all water management districts, the South Florida Water Management District shall include in its budget document a separate section on all costs associated with the Everglades Construction Project.

3. The total amount in the district budget for each area of responsibility listed in paragraph (a) and for water resource development projects identified in the district's regional water supply plans.

4. A description of each new, expanded, reduced, or eliminated program.

5. A proposed five-year water resource development work program, that describes the district's implementation strategy for the water resource development component of each approved regional water supply plan

developed or revised pursuant to s. 373.0361. The work program shall address all the elements of the water resource development component in the district's approved regional water supply plans. The Office of the Governor, with the assistance of the department, shall review the proposed work program. The review shall include a written evaluation of its consistency with and furtherance of the district's approved regional water supply plans, and adequacy of proposed expenditures. As part of the review, the Executive Office of the Governor and the department shall afford to all interested parties the opportunity to provide written comments on each district's proposed work program. At least seven days prior to the adoption of its final budget, the governing board shall state in writing to the Executive Office of the Governor which changes recommended in the evaluation it will incorporate into its work program, or specify the reasons for not incorporating the changes. The Office of the Governor shall include the district's responses in the written evaluation and shall submit a copy of the evaluation to the Legislature; and

6. The funding sources, including, but not limited to, ad valorem taxes, Surface Water Improvement and Management Program funds, other state funds, federal funds, and user fees and permit fees for each program area.

(d) The department shall, by September 5 of the year in which the budget is submitted, after taking into account continuing and proposed program needs, provide its review and comments to the governing board and the Governor. By September 5 of the year in which the budget is submitted, the Executive Office of the Governor and the House and Senate appropriations chairs may transmit to each district comments and objections to the proposed budgets. Each district governing board shall include a response to such comments and objections in the record of the governing board meeting where final adoption of the budget takes place, and the record of this meeting shall be transmitted to the Executive Office of the Governor, the department, and the chairs of the House and Senate appropriations committees.

(e) The Executive Office of the Governor department shall annually, on or before December 15, file with the Governor and the Legislature a report that summarizes the expenditures of the water management districts by program area and identifies the districts that are not in compliance with the reporting requirements of this section. State funds shall be withheld from a water management district that fails to comply with these reporting requirements.

Section 16. Subsection (1) and paragraph (a) of subsection (4) of section 373.59, Florida Statutes, 1996 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 percent of the moneys in the fund may be allocated annually to the districts for management, maintenance, and capital improvements pursuant to subsection (8) (7).

(4)(a) Moneys from the Water Management Lands Trust Fund shall be used for acquiring the fee or other interest in lands necessary for water management, water supply, and the conservation and protection of water resources, except that such moneys shall not be used for the acquisition of rights-of-way for canals or pipelines. Such moneys shall also be used for management, maintenance, and capital improvements. Interests in real property acquired by the districts under this section may be used for permissible water resource development and water supply development purposes under the following conditions: the minimum flows and levels of priority water bodies on such lands have been established; the project complies with all conditions for issuance of a permit under part II of chapter 373; and the project is compatible with the purposes for which the land was acquired. Lands acquired with moneys from the fund shall be managed and maintained in an environmentally

acceptable manner and, to the extent practicable, in such a way as to restore and protect their natural state and condition.

Section 17. Paragraph (b) of subsection (4) of section 186.007, Florida Statutes, is amended to read:

186.007 State comprehensive plan; preparation; revision.—

(4)

(b) The purpose of the growth management portion of the state comprehensive plan is to establish clear, concise, and direct goals, objectives, and policies related to land development, water resources, transportation, and related topics. In doing so, the plan should, where possible, draw upon the work that agencies have invested in the state land development plan, the Florida Transportation Plan, the *Florida water state water-use plan*, and similar planning documents.

Section 18. Paragraph (n) of subsection (2) of section 186.009, Florida Statutes, is amended to read:

186.009 Growth management portion of the state comprehensive plan.—

(2) The growth management portion of the state comprehensive plan shall:

(n) Set forth recommendations on how to integrate the *Florida water state water-use plan* required by s. 373.036, the state land development plan required by s. 380.031(17), and transportation plans required by chapter 339.

The growth management portion of the state comprehensive plan shall not include a land use map.

Section 19. Subsections (1) and (7) of section 373.103, Florida Statutes, are amended to read:

373.103 Powers which may be vested in the governing board at the department's discretion.—In addition to the other powers and duties allowed it by law, the governing board of a water management district may be specifically authorized by the department to:

(1) Administer and enforce all provisions of this chapter, including the permit systems established in parts II, III, and IV of this chapter, consistent with *the state water resource implementation rule policy*.

(7) Prepare, in cooperation with the department, that part of the *Florida water state water-use plan* applicable to the district.

Section 20. Subsection (2) of section 373.114, Florida Statutes, is amended to read:

373.114 Land and Water Adjudicatory Commission; review of district rules and orders; department review of district rules.—

(2) The department shall have the exclusive authority to review rules of the water management districts, other than rules relating to internal management of the districts, to ensure consistency with the *state water resource implementation rule policy* as set forth in the rules of the department. Within 30 days after adoption or revision of any water management district rule, the department shall initiate a review of such rule pursuant to this section.

(a) Within 30 days after adoption of a rule, any affected person may request that a hearing be held before the secretary of the department, at which hearing evidence and argument may be presented relating to the consistency of the rule with *the state water resource implementation rule policy*, by filing a request for hearing with the department and serving a copy on the water management district.

(b) If the department determines that the rule is inconsistent with the *state water resource implementation rule policy*, it may order the water management district to initiate rulemaking proceedings to amend or repeal the rule.

(c) An order of the department requiring amendment or repeal of a rule may be appealed to the Land and Water Adjudicatory Commission by the water management district or any other party to the proceeding before the secretary.

Section 21. Subsection (3) of section 373.418, Florida Statutes, is amended to read:

373.418 Rulemaking; preservation of existing authority.—

(3) The department or governing boards may adopt such rules as are necessary to implement the provisions of this part. Such rules shall be consistent with *the state water resource implementation rule policy* and shall not allow harm to water resources or be contrary to the policy set forth in s. 373.016.

Section 22. Subsection (2) of section 373.456, Florida Statutes, is amended to read:

373.456 Approval of surface water improvement and management plans.—

(2) The department shall have the exclusive authority to review the plan to ensure consistency with the *state water resource implementation rule policy* and the State Comprehensive Plan.

Section 23. Subsection (14) of section 403.031, Florida Statutes, 1996 Supplement, is amended to read:

403.031 Definitions.—In construing this chapter, or rules and regulations adopted pursuant hereto, the following words, phrases, or terms, unless the context otherwise indicates, have the following meanings:

(14) "*State water resource implementation rule policy*" means the rule authorized by s. 373.036, which sets ~~comprehensive statewide policy as adopted by the department pursuant to ss. 373.026 and 403.061,~~ setting forth goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The waters of the state are among its most basic resources. Such waters should be managed to conserve and protect water resources and to realize the full beneficial use of these resources.

Section 24. Subsection (1) and paragraph (a) of subsection (3) of section 403.0891, Florida Statutes, are amended to read:

403.0891 State, regional, and local stormwater management plans and programs.—The department, the water management districts, and local governments shall have the responsibility for the development of mutually compatible stormwater management programs.

(1) The department shall include goals in the *state water resource implementation rule policy* for the proper management of stormwater.

(3)(a) Each local government required by chapter 163 to submit a comprehensive plan, whose plan is submitted after July 1, 1992, and the others when updated after July 1, 1992, in the development of its stormwater management program described by elements within its comprehensive plan shall consider *the state water resource implementation rule policy*, district stormwater management goals, plans approved pursuant to the Surface Water Improvement and Management Act, ss. 373.451-373.4595, and technical assistance information provided by the water management districts pursuant to s. 373.0391.

Section 25. Subsection (10) of section 373.026, section 373.039, and subsection (33) of section 403.061, Florida Statutes, are repealed.

Section 26. Effective January 1, 1999, section 373.0735, Florida Statutes, is repealed.

Section 27. Notwithstanding the provisions of sections 5 and 6 of this act, the establishment of minimum flows and levels for priority waters in Pasco County and Hillsborough County listed for adoption by October 1, 1997, pursuant to chapter 96-339, Laws of Florida, and peer review of the scientific or technical data and methodologies utilized in establishing said minimum flows and levels shall be governed by the provisions of chapter 96-339, Laws of Florida, provided, however, that nothing herein requires the Southwest Florida Water Management District to delay or otherwise recommence the collection, compilation or use of scientific or technical data it had undertaken prior to the effective date of this act for the establishment of minimum flows of levels for water bodies listed for adoption after October 1, 1997, pursuant to 96-339. However, the establishment of implementation of minimum flows for the Hillsborough River and the Palm River/Tampa By-Pass Canal shall be governed by sections 5 and 6 of this act.

Section 28. Present subsections (3), (4), (5), (6), and (7) of section 373.1962, Florida Statutes, are redesignated as subsections (4), (5), (6), (7), and (8), respectively, and a new subsection (3) is added to that section, to read:

373.1962 Regional water supply authorities.—

(3) A regional water supply authority is authorized to develop, construct, operate, maintain, or contract for alternative sources of potable water, including desalinated water, and pipelines to interconnect authority sources and facilities, either by itself or jointly with a water management district; however, such alternative potable water sources, facilities, and pipelines may also be privately developed, constructed, owned, operated, and maintained, in which event an authority and a water management district are authorized to pledge and contribute their funds to reduce the wholesale cost of water from such alternative sources of potable water supplied by an authority to its member governments.

Section 29. Subsection (1) of section 373.1963, Florida Statutes, is amended to read:

373.1963 Assistance to West Coast Regional Water Supply Authority.—

(1) It is the intent of the Legislature to encourage and facilitate the implementation of changes in governance recommended by the West Coast Regional Water Supply Authority in its report to the Legislature dated February 1, 1997. The authority shall submit a supplemental report to the President of the Senate and the Speaker of the House of Representatives on the status of implementing its prior recommendations for changes in governance by January 5, 1998. The authority may reconstitute its governance in a manner consistent with its report to the Legislature, and with the provisions set forth herein, under a voluntary interlocal agreement with a term of not less than 20 years, which substantially provides as follows:

(a) The authority and its member governments agree that cooperative efforts are mandatory to meet their water needs in a manner that will provide adequate and dependable supplies of water where needed without resulting in adverse environmental effects upon the areas from which the water is withdrawn or otherwise produced.

(b) To the extent provided in the interlocal agreement, and to the extent permitted by law:

1. All member governments shall relinquish to the authority their individual rights to develop potable water supply sources;

2. The authority shall be the sole and exclusive wholesale potable water supplier for all member governments; and

3. The authority shall have the absolute and unequivocal obligation to meet the wholesale needs of the member governments for potable water.

(c) The authority shall acquire full or lesser interests in all regionally significant member government wholesale water supply facilities and tangible assets and each member government shall convey such interests in the facilities and assets to the authority, at an agreed value.

(d) The authority shall charge a uniform per gallon wholesale rate to member governments for the wholesale supply of potable water. All capital, operation, maintenance, and administrative costs for existing facilities and acquired facilities, authority master water plan facilities, and other future projects must be allocated to member governments based on water usage at the uniform per gallon wholesale rate.

(e) To the extent provided in the interlocal agreement and to the extent permitted by law, member governments shall develop procedures for resolving their differences regarding water management district proposed agency action in the water use permitting process within the authority. Such procedures should minimize the potential for litigation and include alternative dispute resolution. Nothing herein or in said procedures shall affect the rights of participants under chapter 120.

(f) Upon execution of the voluntary interlocal agreement provided for herein, the authority shall jointly develop with the Southwest Florida Water Management District alternative sources of potable water and transmission pipeline to interconnect regionally significant water supply sources and facilities of the authority in amounts sufficient to meet the

needs of all member governments for a period of at least 20 years described in the voluntary interlocal agreement described herein and for natural systems. Nothing herein, however, shall preclude the Authority and its member governments from developing traditional water sources pursuant to the voluntary interlocal agreement. Development and construction costs for alternative source facilities, which may include a desalination facility and significant regional interconnects, must be borne equally by the authority and the Southwest Florida Water Management District, provided further that not less than 50 percent of the costs must be borne by the district. Nothing herein shall preclude Authority or district cost-sharing with private entities for the construction or ownership of alternative source facilities. By December 31, 1997, the authority and the Southwest Florida Water Management District shall:

1. Enter into a mutually acceptable agreement detailing the development and implementation of directives contained in this paragraph; or

2. Jointly prepare and submit to the President of the Senate and the Speaker of the House of Representatives a report describing the progress made and impediments encountered in their attempts to implement the water resource development and water supply development directives contained in this paragraph.

Nothing in this subsection shall be construed to modify the rights or responsibilities of the Authority, its member governments or the Southwest Florida Water Management District as otherwise set forth by statutes.

(g) Unless otherwise provided in the interlocal agreement, the authority shall be governed, unless otherwise provided in the voluntary interlocal agreement, by a Board of Commissioners consisting of 9 voting members, all of whom must be elected officers, as follows:

1. Three members from Hillsborough County who must be selected by the county commission, provided, however, that one member shall be selected by the Mayor of Tampa in the event that the City of Tampa elects to be a member of the authority;

2. Three members from Pasco County, two of whom must be selected by the county commission and one of whom must be selected by the City Council of New Port Richey;

3. Three members from Pinellas County, two of whom must be selected by the county commission and one of whom must be selected by the City Council of St. Petersburg.

Except as otherwise provided in this section or in the voluntary interlocal agreement between the member governments, a majority vote shall bind the authority and its member governments in all matters relating to the funding of wholesale water supply, production, delivery, and related activities.

~~(1) It is the intent of the Legislature that the West Coast Regional Water Supply Authority established pursuant to s. 373.1962 shall develop an evaluation and recommendation of the following:~~

~~(a) Authority membership and voting;~~

~~(b) Funding options and implementation, including membership responsibility apportionment;~~

~~(c) A water supply development plan based on a 20-year planning horizon;~~

~~(d) Facilities ownership and management;~~

~~(e) Governing board membership, terms, responsibilities, and officers; and~~

~~(f) Utilization of 10 mills of basin board ad valorem taxing authority, were the Legislature or the water management district to make such funding available to the authority.~~

~~The authority shall submit a report to the Speaker of the House of Representatives and the President of the Senate on the elements described in this subsection by February 1, 1997. This report may include proposed necessary statutory amendments to implement the recommendations of the authority.~~

Section 30. Subsection (1) of section 373.1963, Florida Statutes, 1996 Supplement, is amended to read:

373.1963 Assistance to West Coast Regional Water Supply Authority.—

(Substantial rewording of subsection (1). See s. 373.1963, F.S., 1996 Supp., for present text.)

(1) It is the intent of the Legislature to encourage and facilitate the implementation of the changes in governance recommended by the West Coast Regional Water Supply Authority in its report to the Legislature dated February 1, 1997. The Authority shall submit a supplemental report to the Speaker of the House of Representatives and the President of the Senate on the status of implementing its prior recommendations for changes in governance by January 5, 1998. The Authority is authorized to reconstitute its governance under a voluntary interlocal agreement with a term of not less than 20 years.

Section 31. Paragraph (e) of subsection (1) of section 376.307, Florida Statutes, 1996 Supplement, is amended to read:

376.307 Water Quality Assurance Trust Fund.—

(1) The Water Quality Assurance Trust Fund is intended to serve as a broad-based fund for use in responding to incidents of contamination that pose a serious danger to the quality of groundwater and surface-water resources or otherwise pose a serious danger to the public health, safety, or welfare. Moneys in this fund may be used:

(e) To restore or replace contaminated private potable water wells or water systems. However, funds used as provided in this paragraph must be expended for water supply systems or filters for contaminated potable water wells only as follows:

1. Persons who have contaminated potable water wells that were permitted and constructed after January 1, 1989, in accordance with standards adopted under s. 373.309 are eligible for:

a. Subsidies to connect to existing water supply systems or extensions thereof. However, the subsidy may not exceed the present worth of the 10-year cost of providing and maintaining filters for residents served by the connections; or

b. Filters and filter maintenance to provide treatment for water from contaminated wells sufficient to ensure its potability. However, a filter may not be provided for a potable water well designed to provide water to a household that is part of a subdivision or development of a size that would, according to the department, be more effectively served by a water supply system, if the subdivision or development received its development order after January 1, 1989.

2. Subsidies to develop new water supply systems to be permitted and constructed after January 1, 1989, in accordance with standards adopted pursuant to s. 373.309 because of actual or potential contamination of potable water wells. However, a subsidy may not exceed one-half of the present worth of the 10-year cost of providing and maintaining filters for the residents to be served by the system.

3. The most cost-effective remedy, as determined by the department, for wells drilled before January 1, 1989.

4. *Persons permitting and constructing potable water wells on or after July 1, 1997, in accordance with standards adopted pursuant to s. 373.309 because of actual or potential contamination, may be eligible for:*

a. *Subsidies or filters as identified in sub-subparagraphs 1.a. and b.; or*

b. *Subsidies for any increased costs associated with potable water well construction pursuant to s. 373.309(1)(e)4., provided that no such subsidy shall exceed one-half the cost of the well including testing, or one-half the present worth of the 10-year cost of providing and maintaining filters for the residents to be served by said well, whichever is less, provided that the household is not part of a subdivision or development of a size that would, according to the department, be more effectively served by a water supply system, if such subdivision or development received its development order on or after July 1, 1997.*

Section 32. Paragraph (e) of subsection (1) of section 373.309, Florida Statutes, 1996 Supplement, is amended to read:

373.309 Authority to adopt rules and procedures.—

(1) The department shall adopt, and may from time to time amend, rules governing the location, construction, repair, and abandonment of water wells and shall be responsible for the administration of this part. With respect thereto, the department shall:

(e) Encourage prevention of potable water well contamination and promote cost-effective remediation of contaminated potable water supplies by use of the Water Quality Assurance Trust Fund as provided in s. 376.307(1)(e) and establish by rule:

1. Delineation of areas of groundwater contamination for implementation of well location and construction, testing, permitting, and clearance requirements as set forth in subparagraphs 2., 3., 4., 5., and 6. The department shall make available to water management districts, regional planning councils, the Department of Health and Rehabilitative Services, and county building and zoning departments, maps or other information on areas of contamination, including areas of ethylene dibromide contamination. Such maps or other information shall be made available to property owners, realtors, real estate associations, property appraisers, and other interested persons upon request and upon payment of appropriate costs.

2. Requirements for testing for suspected contamination in areas of known contamination, as a prerequisite for clearance of a water well for drinking purposes. *The department is authorized to establish criteria for acceptance of water quality testing results from the Department of Health and laboratories certified by the Department of Health, and is authorized to establish requirements for sample collection quality assurance.*

3. Requirements for mandatory connection to available potable water systems in areas of known contamination, wherein the department may prohibit the permitting and construction of new potable water wells.

4. Location and construction standards for public and all other potable water wells permitted in areas of contamination. Such standards shall be designed to minimize the effects of such contamination.

5. A procedure for permitting all potable water wells in areas of known contamination. Any new water well that is to be used for drinking water purposes and that does not meet construction standards pursuant to subparagraph 4. must be abandoned and plugged by the owner. Water management districts shall implement, through delegation from the department, the permitting and enforcement responsibilities of this subparagraph.

6. A procedure for clearing for use all potable water wells, except wells that serve a public water supply system, in areas of known contamination. If contaminants are found upon testing pursuant to subparagraph 2., a well may not be cleared for use without a filter or other means of preventing the users of the well from being exposed to deleterious amounts of contaminants. The Department of Health and Rehabilitative Services shall implement the responsibilities of this subparagraph.

7. Fees to be paid for well construction permits and clearance for use. The fees shall be based on the actual costs incurred by the water management districts, the Department of Health and Rehabilitative Services, or other political subdivisions in carrying out the responsibilities related to potable water well permitting and clearance for use. The fees shall provide revenue to cover all such costs and shall be set according to the following schedule:

a. The well construction permit fee may not exceed \$500.

b. The clearance fee may not exceed \$50.

8. Procedures for implementing well-location, construction, testing, permitting, and clearance requirements as set forth in subparagraphs 2.-6. within areas that research or monitoring data indicate are vulnerable to contamination with nitrate, or areas in which the department provides a subsidy for restoration or replacement of contaminated drinking water supplies through extending existing water lines or developing new water supply systems pursuant to s. 376.307(1)(e). The department shall consult with the Florida Ground Water Association in the process of developing rules pursuant to this subparagraph.

All fees and funds collected by each delegated entity pursuant to this part shall be deposited in the appropriate operating account of that entity.

Section 33. *The Legislature finds that there currently exist actual or perceived differences in the salaries of certain water management district employees and the salaries of state or other general-purpose local government employees performing the same or similar job functions. The Legislature further finds that section 373.079(4) and (5), Florida Statutes, provide the governing boards of the water management districts significant discretion in determining the compensation of its employees.*

Section 34. (1) *There is created the Water Management District Employee Compensation Study Commission, consisting of 15 members, to review the issue identified in section 30 and to prepare a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 1998, which presents the commission's findings and, if necessary, provides recommendations to remedy any actual or perceived discrepancies between the salaries of state or other general purpose local government employees and employees of the water management districts. The Governor, the President of the Senate, and the Speaker of the House of Representatives shall each appoint five members. Each appointing authority shall appoint two members from professions that are closely related to water management activities, such as hydrologists, geologists, and civil engineers, and one member who has substantial expertise in personnel and management relations. The Governor shall appoint one member who is an elected municipal officer of a municipality of less than 50,000 in population and one member who is an elected county officer of a county of less than 100,000 in population. The President of the Senate shall appoint two members of the Senate. The Speaker of the House of Representatives shall appoint two members of the House of Representatives. Each appointing authority shall consider ethnic and gender balance in addition to particular expertise when making appointments.*

(2) *Each member may receive per diem and expenses for travel, as provided in section 112.061, Florida Statutes, while carrying out official business of the commission.*

(3) *The commission shall be staffed by an executive director and other personnel who are appointed by the commission and who are exempt from part II of chapter 110, Florida Statutes, relating to the Career Service System. The commission may employ staff and consultants as necessary to fulfill its responsibilities.*

(4) *The commission is assigned, for administrative purposes, to the Joint Legislative Management Committee within the Legislature.*

(5) *Appointments must be made by July 1, 1997, and the commission's first meeting must be held by August 31, 1997. The commission shall continue to exist until January 1, 1998. A chairman shall be designated by the Governor.*

Section 35. Subsection (17) is added to section 259.032, Florida Statutes, 1996 Supplement, to read:

Section 36. Paragraph (c) is added to subsection (7) of section 253.03, Florida Statutes, 1996 Supplement, to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(7)

(c) *Structures which are listed in or are eligible for the National Register of Historic Places or the State Inventory of Historic Places and which have a submerged land lease, or have been grandfathered-in to use sovereignty submerged lands until January 1, 1998, pursuant to chapter 18-21.00405, Florida Administrative Code, shall be allowed to apply for an extension of such lease, regardless of the fact that the present landholder is not an adjacent riparian landowner.*

Section 37. Paragraph (b) of subsection (4) of section 370.06, Florida Statutes, 1996 Supplement, is added to read:

370.06 Licenses.—

(4) SPECIAL ACTIVITY LICENSES.—

(a) *Any person who seeks to use special gear or equipment in harvesting saltwater species must purchase a special activity license as specified by law to engage in such activities. The department may issue special activity licenses, in accordance with s. 370.071, to permit the*

cultivation of oysters, clams, mussels, and crabs when such aquaculture activities relate to quality control, sanitation, and public health regulations. The department may prescribe by rule special terms, conditions, and restrictions for any special activity license.

(b) *The department is authorized to issue special activity licenses in accordance with s. 370.06 and s. 370.31, to permit the importation, possession, and aquaculture of anadromous sturgeon. The special activity license shall provide for best management practices to prevent the release and escape of cultured anadromous sturgeon and to protect indigenous populations of saltwater species from sturgeon-borne disease.*

Section 38. Subsections (3) and (4) of section 370.092, Florida Statutes, 1996 Supplement, are amended to read:

370.092 Carriage of proscribed nets across Florida waters.—

(3)(a) *It shall be a major violation pursuant to this section and shall be punished as provided in subsection (4) for any person, firm, or corporation to be simultaneously in possession of any species of mullet in excess of the recreational daily bag limit and any gill or other entangling net as defined in s. 16(c), Art. X of the State Constitution. Simultaneous possession under this provision shall include possession of mullet and gill or other entangling nets on separate vessels or vehicles where such vessels or vehicles are operated in coordination with one another including vessels towed behind a main vessel. This subsection does not prohibit a resident of this state from transporting on land, from Alabama to this state, a commercial quantity of mullet together with a gill net if:*

1. *The person possesses a valid commercial fishing license that is issued by the State of Alabama and that allows the person to use a gill net to legally harvest mullet in commercial quantities from Alabama waters.*

2. *The person possesses a trip ticket issued in Alabama and filled out to match the quantity of mullet being transported, and the person is able to present such trip ticket immediately upon entering this state.*

3. *The mullet are to be sold to a wholesale saltwater products dealer located in Escambia County or Santa Rosa County, which dealer also possesses a valid seafood dealer's license issued by the State of Alabama. The dealer's name must be clearly indicated on the trip ticket.*

4. *The mullet being transported are totally removed from any net also being transported.*

(b) *It shall be a major violation pursuant to this section for any person to be in possession of any species of trout, snook, or redfish which is three fish in excess of the recreational or commercial daily bag limit.*

(4)(a) *In addition to being subject to the other penalties provided in this chapter, any violation of s. 16, Art. X of the State Constitution, paragraph (3)(a), or any rules of the Marine Fisheries Commission which implement the gear prohibitions and restrictions specified therein shall be considered a major violation; and any person, firm, or corporation receiving any judicial disposition other than acquittal or dismissal of such violation shall be subject to the following additional penalties:*

1. *For a first major violation within a 7-year period, a civil penalty of \$2,500 and suspension of all saltwater products license privileges for 90 calendar days following final disposition shall be imposed.*

2. *For a second major violation under this paragraph charged within 7 years of a previous judicial disposition, which results in a second judicial disposition other than acquittal or dismissal, a civil penalty of \$5,000 and suspension of all saltwater products license privileges for 12 months shall be imposed.*

3. *For a third and subsequent major violation under this paragraph, charged within a 7-year period, resulting in a third or subsequent judicial disposition other than acquittal or dismissal, a civil penalty of \$5,000, lifetime revocation of the saltwater products license, and forfeiture of all gear and equipment used in the violation shall be imposed.*

A court may suspend, defer or withhold adjudication of guilt or imposition of sentence only for any first violation of s. 16, Art. X of the State Constitution, or any rule or statute implementing its restrictions, determined by a court only after consideration of competent evidence of mitigating circumstances to be a nonflagrant or minor violation of those restrictions upon the use of nets. Any violation of s. 16, Art. X of the State

Constitution, or any rule or statute implementing its restrictions, occurring within a 7-year period commencing upon the conclusion of any judicial proceeding resulting in any outcome other than acquittal shall be punished as a second, third, or subsequent violation accordingly.

(b) During the period of suspension or revocation of saltwater license privileges under this section, the licensee may not participate in the taking or harvesting or attempt the taking or harvesting of saltwater products from any vessel within the waters of the state, or any other activity requiring a license, permit, or certificate issued pursuant to this chapter. *Any person who violates this paragraph is:*

1. Upon a first or second conviction, to be punished as provided by s. 370.021(2)(a) and (b).

2. Upon a third or subsequent conviction, guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Upon reinstatement of saltwater license privileges suspended pursuant to a violation of this section, a licensee owning or operating a vessel containing or otherwise transporting in or on Florida waters any gill net or other entangling net, or containing or otherwise transporting in nearshore and inshore Florida waters any net containing more than 500 square feet of mesh area shall remain restricted for a period of 12 months following reinstatement, to operation under the following conditions:

1. Vessels subject to this reinstatement period shall be restricted to the corridors established by department rule.

2. A violation of the reinstatement period provisions shall be punishable pursuant to s. 370.021(2)(a) and (b).

(d) Rescission and revocation proceedings under this section shall be governed by chapter 120.

Section 39. Section 370.093, Florida Statutes, is created to read:

370.093 Illegal use of nets.—

(1) *It is unlawful to take or harvest, or to attempt to take or harvest, any marine life in Florida waters with any net that is not consistent with the provisions of s. 16, Art. X of the State Constitution.*

(2)(a) *Beginning July 1, 1998, it is also unlawful to take or harvest, or to attempt to take or harvest, any marine life in Florida waters with any net, as defined in subsection (3) and any attachments to such net, that combined are larger than 500 square feet and have not been expressly authorized for such use by rule of the Marine Fisheries Commission under s. 370.027. The use of currently legal shrimp trawls and purse seines outside nearshore and inshore Florida waters shall continue to be legal until the Commission implements rules regulating those types of gear.*

(b) *The use of gill or entangling nets of any size is prohibited, as such nets are defined in s. 16, Art. X of the State Constitution. Any net constructed wholly or partially of monofilament or multifilament material, other than a hand thrown cast net, or a hand-held landing or dip net, shall be considered to be an entangling net within the prohibition of S. 16, Art. X of the state constitution unless specifically authorized by rule of the commission.*

(c) *This subsection shall not be construed to apply to aquaculture activities licenses issued pursuant to s. 370.26.*

(3) *As used in s. 16, Art. X of the State Constitution and this subsection, the term "net" or "netting" must be broadly construed to include all manner or combination of mesh or webbing or any other solid or semi-solid fabric or other material used to comprise a device that is used to take or harvest marine life.*

(4) *Upon the arrest of any person for violation of this subsection, the arresting officer shall seize the nets illegally used. Upon conviction of the offender, the arresting authority shall destroy the nets.*

(5) *Any person who violates this section shall be punished as provided in s. 370.092(4).*

(6) *The Marine Fisheries Commission is granted authority to adopt rules pursuant to ss. 370.025 and 370.027 implementing the prohibitions and restrictions of s. 16, Art. X of the State Constitution.*

Section 40. Subsection (8) of section 370.14, Florida Statutes, 1996 Supplement, is amended to read:

370.14 *Crawfish; regulation.—*

(8)(a) *By a special permit granted by the Division of Law Enforcement, a Florida-licensed seafood dealer may lawfully import, process, and package saltwater crawfish or uncooked tails of the species Panulirus argus during the closed season. However, crawfish landed under special permit shall not be sold in the state.*

(b) *The licensed seafood dealer importing any such crawfish under the permit shall, 12 hours prior to the time the seagoing vessel or airplane delivering such imported crawfish enters the state, notify the Division of Law Enforcement as to the seagoing vessel's name or the airplane's registration number and its captain, location, and point of destination.*

(c) *At the time the crawfish cargo is delivered to the permitholder's place of business, the crawfish cargo shall be weighed in the presence of the marine patrol officer, and shall be available for inspection by the Department of Environmental Protection. A signed receipt of such quantity in pounds shall be forwarded furnished to said officer, which receipt shall be filed by the marine patrol officer with the Division of Law Enforcement's local Florida Marine Patrol office within 48 hours after shipment weigh-in completion. If requested by the department, the weigh-in process will be delayed up to 4 hours to allow for a department representative to be present during the process Enforcement.*

(d) *Within 48 hours after shipment weigh-in completion from the time the receipt is given to the marine patrol officer, the permitholder shall submit to the Division of Law Enforcement, on forms provided by the division, a sworn report of the quantity in pounds of the saltwater crawfish received, which report shall include the location of said crawfish and a sworn statement that said crawfish were taken at least 50 miles from Florida's shoreline. The landing of crawfish or crawfish tails from which the eggs, swimmerettes, or pleopods have been removed; the falsification of information as to area from which crawfish were obtained; or the failure to file the report called for in this section shall be grounds to revoke the permit.*

(e) *Each permitholder shall keep throughout the period of the closed season copies of the bill of sale or invoices covering each transaction involving crawfish imported under this permit. Such invoices and bills shall be kept available at all times for inspection by the division.*

Section 41. Effective October 1, 1997, section 370.1405, Florida Statutes, is created to read:

370.1405 Crawfish reports by dealers during closed season required.—

(1) *Within 3 days after the commencement of the closed season for the taking of saltwater crawfish, each and every seafood dealer, either retail or wholesale, intending to possess crawfish, crawfish tails, or crawfish meat during closed season shall submit to the Department of Environmental Protection, on forms provided by the department, a sworn report of the quantity, in pounds, of saltwater whole crawfish, crawfish tails, and crawfish meat in the dealer's name or possession as of the date the season closed. This report shall state the location and number of pounds of whole crawfish, crawfish tails, and crawfish meat. The department shall not accept any reports not delivered or postmarked by midnight of the 3rd calendar day after the commencement of the closed season, and any stocks of crawfish reported therein are declared a nuisance and may be seized by the department.*

(2) *Failure to submit a report as described in subsection (1) or reporting a greater or lesser amount of whole crawfish, crawfish tails, or crawfish meat than is actually in the dealer's possession or name is a major violation of this chapter, punishable as provided in s. 370.021(2), s. 370.07(6)(b), or both. The department shall seize the entire supply of unreported or falsely reported whole crawfish, crawfish tails, or crawfish meat, and shall carry the same before the court for disposal. The dealer shall post a cash bond in the amount of the fair value of the entire quantity of unreported or falsely reported crawfish as determined by the*

judge. After posting the cash bond, the dealer shall have 24 hours to transport said products outside the limits of Florida for sale as provided by s. 370.061. Otherwise, the product shall be declared a nuisance and disposed of by the department according to law.

(3) All dealers having reported stocks of crawfish may sell or offer to sell such stocks of crawfish; however, such dealers shall submit an additional report on the last day of each month during the duration of the closed season. Reports shall be made on forms supplied by the department. Each dealer shall state on this report the number of pounds sold during the report period and the pounds remaining on hand. In every case, the amount of crawfish sold and the amount reported on hand shall equal the amount remaining on hand in the last submitted report. Reports postmarked later than midnight on the 3rd calendar day of each month during the duration of the closed season will not be accepted by the department. Dealers for which late supplementary reports are not accepted by the department, must show just cause why their entire stock of whole crawfish, crawfish tails, or crawfish meat should not be seized by the department. Whenever a dealer fails to make the monthly supplementary report as described in this subsection, the dealer may be subject to the following civil penalties as follows:

(a) For a first violation, the department shall assess a civil penalty of \$500.

(b) For a second violation within the same crawfish closed season, the department shall assess a civil penalty of \$1,000.

(c) For a third violation within the same crawfish closed season, the department shall assess a civil penalty of \$2,500 and may seize said dealer's entire stock of whole crawfish, crawfish tails, or crawfish meat and carry the same before the court for disposal. The dealer shall post a cash bond in the amount of the fair value of the entire remaining quantity of crawfish as determined by the judge. After posting the cash bond, a dealer shall have 24 hours to transport said products outside the limits of Florida for sale as provided by s. 370.061. Otherwise, the product shall be declared a nuisance and disposed of by the department according to law.

(4) All seafood dealers shall at all times during the closed season make their stocks of whole crawfish, crawfish tails, or crawfish meat available for inspection by the department.

(5) Each dealer in whole crawfish, crawfish tails, or crawfish meat shall keep throughout the period of the crawfish closed season copies of the bill of sale or invoice covering each transaction involving whole crawfish, crawfish tails, or crawfish meat. Such invoices and bills shall be kept available at all times for inspection by the department.

Section 42. (1) Notwithstanding the provisions of section 370.093(3), Florida Statutes, there is hereby established a 3-year pilot program that allows for participation by Saltwater Products License holders with purse seine endorsements during the years 1995 or 1996 located in the counties of Wakulla, Franklin, Gulf, Bay, Walton, and Okaloosa. Priority shall be given to such Saltwater Products License holders with landings in 1996 as recorded on Florida DEP trip tickets of one or more of the following baitfish species: Spanish sardines, cigar minnows, thread herring, chub mackerel, anchovy, little tunny, menhaden, blue runner, and ladyfish. No more than 7 such licenses shall be issued which allow for and shall be limited to the following:

(a) These licenses shall be issued only for the use of baitfish purse seines, not exceeding 600 yards in length, to be used in the nearshore and inshore waters, modified to employ solid tarpaulin material in conjunction with 500 square feet of traditional seine mesh netting in the State of Florida in and south of the counties of Wakulla, Franklin, Gulf, Bay, Walton, and Okaloosa. Only one purse seine per license shall be allowed.

(b) Each licensee shall post a bond of \$50,000 payable to the State of Florida as security to pay for any environmental damage or cleanup of material caused by this fishing gear of the licensee.

(2) The Marine Fisheries Commission shall establish limits on annual harvest levels for the area, for each of the baitfish species that are the subject of this section, based on maintaining healthy scientific and biological levels of stock abundance of those certain baitfish species by allowing annual harvest of the baitfish species in the program area limited by the Florida Marine Fisheries Commission not to exceed 50 percent

of the annual average of reported landings which occurred over the 3 years prior to July 1, 1995.

Section 43. Except as otherwise provided herein, this act shall take effect July 1, 1997.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to environmental protection; amending s. 373.016, F.S.; revising legislative policy; providing construction and application; amending s. 373.019, F.S.; revising definitions; defining "district water management plan," "Florida water plan," "regional water supply plan," "water resource development," "water resource implementation rule," and "water supply development;" amending s. 373.036, F.S.; eliminating the state water use plan; providing for development of the Florida water plan, to include the water resource implementation rule; providing procedure for rule amendment; requiring water management district governing boards to develop district water management plans; creating s. 373.0361, F.S.; providing requirements for regional water supply plans for regions identified in district water management plans; requiring an annual report; amending s. 373.042, F.S.; revising minimum flows and levels timing requirements; providing for independent scientific peer review; creating s. 373.0421, F.S.; requiring certain considerations in establishment and implementation of minimum flows and levels; providing for implementation of recovery or prevention strategies; amending s. 373.046, F.S.; providing for interdistrict agreements for implementation of certain regulatory responsibilities; amending s. 373.0693, F.S.; correcting a cross reference; amending s. 373.073, F.S.; revising procedure for appointment of members to the water management district governing boards; providing a timetable; providing criteria for selection; amending s. 373.079, F.S.; requiring the Governor to select a governing board member as chair of the governing board; revising procedure for appointment of district executive directors; providing respective authority of the Governor and governing boards; authorizing employment of governing board ombudsmen; providing for confirmation of executive directors by the Senate; revising duties of governing board legal staff; creating s. 373.0831, F.S.; specifying governing board responsibilities for water resource development and responsibilities of other entities for water supply development; providing for priorities for funding; requiring a report; amending s. 373.236, F.S.; revising provisions relating to duration of consumptive use permits; requiring compliance reports and permit modification, under certain circumstances; requiring a proposal for reevaluation of certain areas with contaminated water supplies; amending s. 373.507, F.S.; revising provisions relating to district and basin audits, budgets, and expense reports; requiring districts to furnish copies of documents to specified entities and to respond to comments; amending s. 373.536, F.S.; providing requirements for notice and advertisement of district budget hearings and workshops; providing requirements for budget identification of administrative and operating expenses; providing for certain analysis of budgets; revising requirements for submittal of tentative budgets; amending s. 373.59, F.S.; deleting obsolete language; correcting a cross reference; authorizing use of interests in property acquired under the Water Management Lands Trust Fund for permissible water resource development and water supply development purposes; amending ss. 186.007, 186.009, 373.103, 373.114, 373.418, 373.456, 403.031, and 403.0891, F.S., to conform to the act; repealing ss. 373.026(10), 373.039, and 403.061(33), F.S., relating to state water policy and the Florida water plan; repealing s. 373.0735, F.S., relating to appointment of members to the governing board of the Southwest Florida Water Management District; providing for grandfathering-in of minimum flows and levels for priority waters in Pasco County and Hillsborough County pursuant to provisions of chapter 96-339, Laws of Florida; providing for application of act to Hillsborough River and the Palm River/Tampa By-Pass Canal; amending s. 373.1962, F.S.; providing procedures that a regional water supply authority may use to provide alternative sources of potable water; amending s. 373.1963, F.S.; providing for supplemental report from the West Coast Regional Water Supply Authority; amending s. 376.307, F.S.; providing that funds in the Water Quality Assurance Trust Fund may be used for certain subsidies or filters; amending s. 373.309, F.S.; authorizing the Department of Health to establish criteria for acceptance of certain tests; providing a legislative finding; creating the Water Management District Employee Compensation Study Commission; providing its duties; amending s. 253.03, F.S.; extending the submerged lands lease for certain properties; amending s. 370.06, F.S.; authorizing the department to issue special activity licenses for aquacultural activities involving sturgeon; amending s. 370.092, F.S.; providing for the transport of mullet harvested in Alabama waters; providing for penalties for fishing

during periods of license suspension or revocation; creating s. 370.093, F.S.; prohibiting the harvest of marine life with nets inconsistent with s. 16, Art. X of the State Constitution; providing for penalties; providing a definition of the terms "net" and "netting"; authorizing the Marine Fisheries Commission to adopt certain rules; amending s. 370.14, F.S.; providing the Marine Patrol discretion to be present at the closed-season weighing of crawfish; creating s. 370.1405, F.S.; providing for the sale of crawfish during a closed season under specified reporting requirements; providing penalties; establishing an experimental program to assess the utility and effects of using "tarp" nets to harvest baitfish; providing an effective date.

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

Amendment 1A—On page 16, between lines 6 and 7, insert:

(c) *Minimum flows and levels shall be based on sound science, using best available data.*

(d) *The methods and schedules for implementation of minimum flows and levels may consider economic impacts, as well as the urgency of abating significant harm to the water resources or ecology of the area.*

Senator Campbell moved the following amendment to **Amendment 1** which failed:

Amendment 1B—On page 16, line 7, insert:

(c) *Minimum flows and levels shall be based on sound science using best available data, and established solely on the scientific criteria of the viability and sustainability of the water resource.*

(d) *The methods and schedules for implementation of minimum flows and levels may consider economic impacts, as well as the urgency of abating significant harm to the water resources or ecology of the area.*

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

Amendment 1C—On page 22, line 17, delete "subparagraphs 2 and 3" and insert: *this paragraph*

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

Amendment 1D—On page 26, lines 24-30, delete those lines and insert:

(2)(b) Notwithstanding the

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

Amendment 1E—On page 30, line 29 through page 31, line 1, delete those lines and insert: *years thereafter, members composing the governing*

Amendment 1F—On page 31, line 27, before "regular" insert: *second*

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

Amendment 1G (with title amendment)—On page 34, between lines 13 and 14, insert:

Section 12. Subsection (4) of section 373.139, Florida Statutes, 1996 Supplement, is amended to read:

373.139 Acquisition of real property.—

(4) The governing board of the district may purchase tax certificates or tax deeds issued in accordance with chapter 197 relating to property eligible for purchase under this section. *Except when prohibited by a covenant or condition described in s. 373.056(2), lands owned, managed, and controlled by the district may be used for multiple purposes, including, but not limited to, agriculture, silviculture, and water supply, as well as boating and other recreational uses.*

(Renumber subsequent sections.)

And the title is amended as follows:

On page 73, line 19, after the second semicolon (;) insert: *amending s. 373.139, F.S.; authorizing the use of land for multiple purposes;*

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

Amendment 1H—On page 48, lines 10-27, delete those lines and insert:

Section 27. *Nothing in sections 5 and 6 of this act shall be construed to:*

(1) *Modify the order or dates by which the Southwest Florida Water Management District will establish minimum flows and levels for water bodies in Hillsborough, Pasco, and Pinellas counties as listed pursuant to chapter 96-339, Laws of Florida.*

(2) *Modify the peer review process for the establishment of minimum flows and levels in Hillsborough, Pasco, and Pinellas counties created by chapter 96-339, Laws of Florida.*

As it relates only to the counties of Hillsborough, Pasco, and Pinellas, in the event of conflict between section 373.0421(2), Florida Statutes, created by this act and statutory and case law existing immediately prior to the effective date of this act, the prior law shall govern; provided, however, that the establishment and implementation of minimum flows for the Hillsborough River and the Palm River/Tampa By-Pass Canal shall be governed by sections 5 and 6 of this act.

Amendment 1I—On page 51, lines 16 and 17, delete those lines and insert: *20 years and for natural systems. Nothing herein,*

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

Amendment 1J—On page 51, lines 23-26, delete those lines and insert: *interconnects, must be borne as mutually agreed to by both the authority and the Southwest Florida Water Management District. Nothing herein shall preclude authority or*

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

Amendment 1K—On page 52, lines 15 and 16, delete those lines and insert: *agreement, the authority shall be governed by a Board of*

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

Amendment 1L (with title amendment)—On page 58, between lines 29 and 30, insert:

Section 33. (1) *As used in this section, "severance pay" means the actual or constructive compensation, in salary, benefits, or perquisites, of an officer or employee of a water management district, or any subdivision or agency thereof, for employment services yet to be rendered for a term greater than one normal pay period before or immediately following termination of employment. The term does not include:*

(a) *Earned and accrued annual, sick, compensatory, and administrative leave.*

(b) *Early retirement provisions established in an actuarially funded pension plan subject to part VII of chapter 112, Florida Statutes.*

(2) *A water management district, or any agency or subdivision thereof, may not pay to any of its officers or employees severance pay, except under any of the following conditions:*

(a) *The severance pay is authorized in an employment contract or collective bargaining agreement providing for it and in effect on July 1, 1997. Collective bargaining agreements or employment contracts extended or entered on or after July 1, 1997, may not contain any provision for severance pay. However, employees classified as managerial, executive, or exempt in the district's personnel plan who serve at the convenience of the district are subject to the provisions of this section beginning July 1, 1997.*

(b) *The severance pay is paid from wholly private funds available to the district in the ordinary course of business, the payment and receipt of which would not otherwise violate any provision of part III of chapter 112, Florida Statutes.*

(c) *The severance pay is administered under the auspices of part II of chapter 112, Florida Statutes, on behalf of an agency outside this state and would be permitted under that agency's personnel system.*

(3) *This section does not operate an entitlement to severance pay in the absence of its authorization by a water management district.*

(Renumber subsequent sections.)

And the title is amended as follows:

On page 75, line 8, after the first semicolon (;) insert: prohibiting the payment of severance pay by a water management district to any of its officers or employees, except under specified circumstances;

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

Amendment 1M (with title amendment)—On page 59, between lines 7 and 8, insert:

Section 34. Subsection (6) of section 373.250, Florida Statutes, is amended to read:

373.250 Reuse of reclaimed water.—

(6) Each water management district shall submit to the Legislature, by ~~June 1~~ ^{January 30} of each year, an annual report which describes the district's progress in promoting the reuse of reclaimed water. The report shall include, but not be limited to:

(a) The number of permits issued during the year which required reuse of reclaimed water and, by categories, the percentages of reuse required.

(b) The number of permits issued during the year which did not require the reuse of reclaimed water and, of those permits, the number which reasonably could have required reuse.

(c) In the second and subsequent annual reports, a statistical comparison of reuse required through consumptive use permitting between the current and preceding years.

(d) A comparison of the volume of reclaimed water available in the district to the volume of reclaimed water required to be reused through consumptive use permits.

(e) A comparison of the volume of reuse of reclaimed water required in water resource caution areas through consumptive use permitting to the volume required in other areas in the district through consumptive use permitting.

(f) An explanation of the factors the district considered when determining how much, if any, reuse of reclaimed water to require through consumptive use permitting.

(g) A description of the district's efforts to work in cooperation with local government and private domestic wastewater treatment facilities to increase the reuse of reclaimed water. The districts, in consultation with the department, shall devise a uniform format for the report required by this subsection and for presenting the information provided in the report.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 75, line 20, after the first semicolon (;) insert: amending s. 373.250, F.S.; providing a date for water management districts to submit annual reports to the Legislature;

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

Amendment 1N—On page 60, lines 18 and 19, delete those lines and renumber subsequent sections.

Amendment 10—On page 65, line 28, after the period (.) insert: *Multifilament material shall not be defined to include nets constructed of braided or twisted nylon, cotton, linen twine, or polypropylene twine.*

Senators Kurth, Hargrett, Cowin and Brown-Waite offered the following amendment to **Amendment 1** which was moved by Senator Kurth and failed:

Amendment 1P (with title amendment)—On page 71, between lines 20 and 21, insert:

Section 43. (1) *There is created the Task Force on Water and Wastewater Utility Regulation by the Public Service Commission.*

(2) *The Task Force shall act as an advisory and recommendatory body to the Governor and the Legislature.*

(3) *The Task Force shall consist of 15 members, as follows:*

(a) *A representative from the Governor's office;*

(b) *Two Senators, one of whom shall serve as co-chair of the task force, a representative for the consumer, a representative from the municipalities, and a representative of the water and wastewater utility industry, each of whom is to be appointed by the Senate President;*

(c) *Two Members of the House of Representatives, one of whom shall serve as co-chair of the task force, two representatives for the consumer, including a representative of low-income consumers, a representative from the municipalities, and a representative of the water and wastewater utility industry, each of whom is to be appointed by the Speaker of the House of Representatives;*

(d) *The chair of the Public Service Commission;*

(e) *The Public Counsel; and*

(f) *The Secretary or a designee of the Department of Environmental Protection.*

(4) *The task force shall study and develop recommendations regarding, but not limited to:*

(a) *Public Service Commission administrative rules and rate case processes for all types of water and wastewater utilities, with particular focus on home association-owned or developer-owned utilities, including, but not limited to, guaranteed rates of return, rate increases, the extent of consumer participation relative to all phases of the utility's development, service, and establishment of rates, and suggestions for implementation of citizen advisory task forces composed of citizens in the jurisdiction in which the utility serves;*

(b) *The process, extent, and equity of pass-through charges from water and wastewater utilities to customers, including environmental compliance costs;*

(c) *Incentives for desalination, conservation, and reuse projects;*

(d) *Benefits of utilizing contributions-in-aid-of-construction in the rate base; and*

(e) *Potential ways to provide affordable water rates to low-income households.*

(5) *The task force shall hold at least five public meetings, of which one shall be held in Brevard County and another in Sarasota County. Additional meetings may be called by the co-chairs, or upon written request of a majority of the members of the task force. The first meeting shall be held no later than 30 days after the appointments are made but before July 1, 1997. All meetings of task force are public in accordance with the provisions of section 286.011, Florida Statutes.*

(6) *The task force may adopt and enforce reasonable procedures necessary to facilitate the studies and the reviews it is authorized to perform.*

(7) *Members of the task force shall receive no compensation but shall receive per diem and travel expenses pursuant to section 112.061, Florida Statutes, while in the performance of their duties. Private-sector members of the task force are not eligible for per diem or travel expenses.*

(8) *The staffs of the Senate Committee on Regulated Industries and the House Committee on Utilities and Communications shall provide support for the task force and such additional assistance shall be provided as is appropriate by the Public Service Commission and the Department of Management Services.*

(9) *The task force shall issue a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than January 15, 1998. The report shall detail its activities during the preceding year, summarize its findings, state its conclusions, and, to the extent possible, include specific recommendations for any necessary legislative, administrative, or regulatory reform.*

(10) *This section expires on the first day of the 1998 Regular Session of the Legislature.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 76, line 4, after the semicolon (;) insert: creating a Task Force on Water and Wastewater Utility Regulation by the Public Service Commission; providing duties; providing for a report;

Senators Williams, Brown-Waite, Bronson and Cowin offered the following amendment to **Amendment 1** which was moved by Senator Williams and failed:

Amendment 1Q (with title amendment)—On page 71, between lines 20 and 21, insert:

Section 43. Subsection (2) of section 373.223, Florida Statutes, is amended to read:

373.223 Conditions for a permit.—

(2) The governing board or the department may authorize the holder of a use permit to transport and use ground or surface water beyond overlying land, across county boundaries, or outside the watershed from which it is taken if the governing board or department determines that such transport and use is consistent with the public interest, and no local government shall adopt or enforce any law, ordinance, rule, regulation, or order to the contrary. *Except for the Central and Southern Florida Flood Control Project, when evaluating whether such a potential transport of ground or surface water is consistent with the public interest, the governing board or department may give significant weight to:*

(a) *The proximity of the proposed source of water to the area in which it is to be used or applied.*

(b) *Other environmentally, economically, and technically feasible alternatives to the source being proposed, including, but not limited to, desalination, reuse, stormwater, and aquifer storage and recovery.*

(c) *Cumulative impacts due to groundwater withdrawal.*

(d) *Affected local governments.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 76, line 4, after the semicolon (;) insert: amending s. 373.223, F.S.; providing criteria to be considered in authorizing transport and use of ground or surface waters;

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

Amendment 1R (with title amendment)—On page 71, between lines 20 and 21, insert:

Section 43. Section 403.0882, Florida Statutes, is created to read:

403.0882 Discharge of demineralization concentrate.—

(1) *For the purposes of this section, the term:*

(a) *“Demineralization concentrate” means the concentrated byproduct formed by demineralization.*

(b) *“Demineralization” means the use of reverse osmosis, ion exchange, membrane softening, ultra filtration, and other similar processes to remove materials from water for the production of potable water for human consumption.*

(c) *“Small water utility business” means any facility that distributes potable water to two or more customers with a concentrate discharge of less than 50,000 gallons per day.*

(2) *The department shall classify the discharge of demineralization concentrate as a potable water byproduct rather than as an industrial wastewater. Except as otherwise provided in this section, the discharge of demineralization concentrate shall be permitted according to the same requirements as an industrial wastewater under this chapter.*

(3)(a) *The discharge of demineralization concentrate from small water utility businesses meeting the standards set forth in this section and s. 403.086(4) shall be presumed to be allowable and permissible in all waters in the state at a reasonably accessible point where such discharge results in minimal negative impact as demonstrated by the permit applicant. The presumption may be overcome only by a demonstration that one or more of the following conditions is present:*

1. *The discharge will be made directly into an Outstanding Florida Water, except as provided in chapter 90-262, Laws of Florida;*

2. *The discharge will be made directly to Class I or Class II waters;*

3. *The discharge will be made to a water body having a total maximum daily load established by the department and the discharge will cause or contribute to a violation of the established load;*

4. *The discharge fails to meet the requirements of the antidegradation policy contained in the department rules;*

5. *The discharge will be made to a sole-source aquifer as defined in department rules; or*

6. *The discharge fails to meet applicable surfacewater and groundwater quality standards.*

(b) *If one or more of the conditions in subparagraphs (a)1.-6. has been demonstrated, the department may:*

1. *Require more stringent effluent limitations;*

2. *Require relocation of the discharge point or a change in the method of discharge;*

3. *Limit the duration or volume of the discharge; or*

4. *Prohibit the discharge if there is no alternative that meets the conditions of subparagraphs 1.-3.*

(4)(a) *Discharge of demineralization concentrate from facilities used for the production of potable water to domestic wastewater treatment plant effluent disposal, not including reuse systems, shall be presumed allowable if the discharge of concentrate to the wastewater treatment facility is at no time greater than 20 percent of the annual average daily flow of that facility;*

(b) *Discharge of demineralization concentrate from facilities used for the production of potable water to domestic wastewater reuse systems, including drain fields, percolation ponds, absorption fields, and spray irrigation sites, shall be allowable if the applicant demonstrates through the engineering report that the blend will meet water quality standards and protect public health, site vegetation, and the ability of the reuse system, including land application, to function as intended.*

(5) *For facilities owned by small water utility businesses, the following conditions apply:*

(a) *A mixing zone with a radius that is not in excess of two times the natural water depth at the point of discharge for acute toxicity, or a 200-foot radius for chronic toxicity, and that provides for a minimum of 4 to 1 dilution within the mixing zone for acute toxicity under all conditions, shall be presumed allowable in the permitting of discharge of concentrate from facilities used for demineralization for potable water production.*

(b) *The department shall not:*

1. *Require such businesses to perform toxicity testing at other than the time of permit application, permit renewal, or any requested permit modification, unless the initial toxicity test or any subsequent toxicity test performed by the department does not meet toxicity requirements.*

2. *Require such businesses to obtain a water-quality-based effluent limitation determination.*

(6) *Demineralization facilities may apply for permits under this section according to the following schedule:*

(a) *For facilities providing potable water service to more than 2,000 equivalent residential customers, no later than 18 months after the effective date of this section.*

(b) *For facilities providing potable water service to 1,000 or more but not more than 2,000 residential equivalent customers, no later than 24 months after the effective date of this section.*

(c) *For facilities providing potable water service to fewer than 1,000 equivalent residential customers, or small water utility businesses, no later than 36 months after the effective date of this section.*

(7) *The department may adopt rules for the regulation of demineralization and to implement the provisions of this section.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 76, line 4, after the semicolon (;) insert: creating s. 403.0882, F.S.; providing definitions; specifying conditions and limitations for the discharge of demineralization concentrate; specifying conditions for discharge of concentrate from small water utility businesses; limiting departmental regulation of such businesses; providing a permitting schedule for demineralization facilities;

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **CS for HB's 715, 1249, 1321 and 1339** as amended was placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for SB 214** was deferred.

On motion by Senator Casas, by two-thirds vote **CS for CS for HB 725** was withdrawn from the Committees on Regulated Industries; Commerce and Economic Opportunities; and Ways and Means.

On motion by Senator Casas—

CS for CS for HB 725—A bill to be entitled An act relating to the Beverage Law; amending s. 561.14, F.S.; allowing vendor-to-vendor sales; establishing limits; requiring maintenance of certain records; amending s. 561.24, F.S.; including manufacturers of wine within a group of manufacturers who may not be licensed as distributors or registered exporters; providing exceptions; creating s. 561.5101, F.S.; requiring all alcoholic beverages brought into this state to come to rest at a wholesaler's licensed premises prior to sale; providing exceptions; providing penalties; amending s. 561.54, F.S.; providing for injunctive relief; providing for confiscation and destruction of certain alcoholic beverages; providing for treble damages; providing for costs and attorney fees; creating s. 561.545, F.S.; providing legislative intent; prohibiting the direct shipment of alcoholic beverages to any person in the state other than a licensed manufacturer or wholesaler, registered exporter, or state bonded warehouse; providing penalties; providing an exception for sacramental alcoholic beverages; amending s. 561.68, F.S., relating to the licensure of salesmen of spirituous or vinous beverages; providing an exception; providing an effective date.

—a companion measure, was substituted for **CS for CS for CS for SB 336 and CS for SB's 1216 and 2024** and read the second time by title.

Senator Casas moved the following amendment:

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

Section 1. *No later than March 1, 1999, the Department of Business and Professional Regulation shall certify to the President of the Senate and the Speaker of the House of Representatives the amount of taxes due and paid during calendar year 1998 under sections 563.05, 564.06, and 565.12, Florida Statutes, and payments made to the state pursuant to section 561.54, Florida Statutes. If this amount is greater than \$535 million, then, effective July 1, 1999, section 561.501, Florida Statutes, is repealed.*

Section 2. Contingent upon the repeal of section 561.501, Florida Statutes, section 561.025, Florida Statutes, is amended to read:

561.025 Alcoholic Beverage and Tobacco Trust Fund.—There is created within the State Treasury the Alcoholic Beverage and Tobacco Trust Fund. All funds collected by the division under ss. 210.15, 210.40, or under s. 569.003 and the Beverage Law with the exception of state funds collected pursuant to ss. ~~561.501~~, 563.05, 564.06, and 565.12 shall be deposited in the State Treasury to the credit of the trust fund, notwithstanding any other provision of law to the contrary. Moneys deposited to the credit of the trust fund shall be used to operate the division and to provide a proportionate share of the operation of the office of the secretary and the Division of Administration of the Department of Business and Professional Regulation; except that:

(1) The revenue transfer provisions of ss. 561.32 and 561.342(1) and (2) shall continue in full force and effect, and the division shall cause such revenue to be returned to the municipality or county in the manner provided for in s. 561.32 or s. 561.342(1) and (2); and

(2) Ten percent of the revenues derived from retail tobacco products dealer permit fees collected under s. 569.003 shall be transferred to the Department of Education to provide for teacher training and for research and evaluation to reduce and prevent the use of tobacco products by children, pursuant to s. 233.067(4).

Section 3. Contingent upon the repeal of section 561.501, Florida Statutes, section 561.121, Florida Statutes, is amended to read:

561.121 Deposit of revenue.—

(1) All state funds collected pursuant to ss. 563.05, 564.06, and 565.12 shall be paid into the State Treasury and disbursed in the following manner:

(a) Two percent of monthly collections of the excise taxes on alcoholic beverages established in ss. 563.05, 564.06, and 565.12 shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund to meet the division's appropriation for the state fiscal year.

(b) *Ten million dollars annually shall be transferred to the Children and Adolescents Substance Abuse Trust Fund, which shall remain with the Department of Children and Family Services for the purpose of funding programs directed at reducing and eliminating substance abuse problems among children and adolescents.*

(c) ~~(b)~~ The remainder of collection shall be credited to the General Revenue Fund.

(2) The unencumbered balance in the Alcoholic Beverage and Tobacco Trust Fund at the close of each fiscal year may not exceed \$2 million. These funds shall be held in reserve for use in the event that trust fund revenues are unable to meet the division's appropriation for the next fiscal year. In the event of a revenue shortfall, these funds shall be spent pursuant to subsection (3). Notwithstanding subsection (1), if the unencumbered balance on June 30 in any fiscal year is less than \$2 million, the department is authorized to retain the difference between the June 30 unencumbered balance in the trust fund and \$2 million from the July collections of state funds collected pursuant to ss. 563.05, 564.06, and 565.12. Any unencumbered funds in excess of reserve funds shall be transferred unallocated to the General Revenue Fund by August 31 of the next fiscal year.

(3) Funds deposited into the Alcoholic Beverage and Tobacco Trust Fund pursuant to subsection (1) shall be used for administration and enforcement of chapters 210, 561, 562, 563, 564, 565, 567, 568, and 569.

~~(4) State funds collected pursuant to s. 561.501 shall be paid into the State Treasury and credited to the following accounts:~~

~~(a) Nine and eight-tenths of the surcharge on the sale of alcoholic beverages for consumption on premises shall be transferred to the Children and Adolescents Substance Abuse Trust Fund, which shall remain with the Department of Health and Rehabilitative Services for the purpose of funding programs directed at reducing and eliminating substance abuse problems among children and adolescents.~~

~~(b) The remainder of collections shall be credited to the General Revenue Fund.~~

Section 4. Subsections (1), (2), (3), (4), and (5) of section 561.24, Florida Statutes, are amended to read:

561.24 Licensing manufacturers as distributors or registered exporters prohibited; procedure for issuance and renewal of distributors' licenses and exporters' registrations.—

(1) A manufacturer, rectifier, or distiller that manufactures, rectifies, or distills spirituous liquors *or wine* may not be granted a license as a distributor and may not register as an exporter.

(2) A manufacturer, rectifier, or distiller that manufactures, rectifies, or distills spirituous liquors *or wine* may not be granted a renewal of a license or registration previously held as a distributor or exporter.

(3) If the applicant for a distributor's license or exporter's registration, or renewal thereof, is an individual or copartnership, such individual or copartnership is within the provisions of subsection (1) or subsection (2), as the case may be, if the individual or any member of the copartnership is interested or connected, directly or indirectly, with any corporation which is engaged directly or indirectly or through any subsidiary or affiliate corporation, including any stock ownership as set forth in subsection (4), in manufacturing, rectifying, or distilling spirituous liquors *or wine*. If any individual or any member of such copartnership within 6 months next preceding the making of an application hereunder has been interested or connected as provided by this subsection, such individual or such member of the copartnership shall be prima facie presumed to be so interested or connected with such corporation at the time of the making of the application, and such prima facie presumption shall continue until overcome by the applicant.

(4) If the applicant for a distributor's license or exporter's registration, or for the renewal thereof, is a corporation, such corporation is within the provisions of subsections (1) and (2), as the case may be, if such corporation is affiliated with, directly or indirectly, any other corporation which is engaged in manufacturing, rectifying, or distilling spirituous liquors *or wine* or if such applicant corporation is controlled by, or the majority of stock therein is owned by, another corporation, which latter corporation is engaged, directly or indirectly, in manufacturing, rectifying, or distilling spirituous liquors *or wine*.

(5) Notwithstanding any of the provisions of the foregoing subsections, any corporation which holds a license as a distributor on June 3, 1947, shall be entitled to a renewal thereof, provided such corporation complies with all of the provisions of the Beverage Law of Florida, as amended, and of this section and establishes by satisfactory evidence to the ~~division board of county commissioners of the county wherein the original license was issued~~ that, during the 6-month period next preceding its application for such renewal, of the total volume of its sales of spirituous liquors, in either dollars or quantity, not more than 40 percent of such spirituous liquors sold by it, in either dollars or quantity, were manufactured, rectified, or distilled by any corporation with which the applicant is affiliated, directly or indirectly, including any corporation which owns or controls in any way any stock in the applicant corporation or any corporation which is a subsidiary or affiliate of the corporation so owning stock in the applicant corporation. *Any manufacturer of wine holding a license as a distributor on the effective date of this act shall be entitled to a renewal of such license notwithstanding the provisions of subsections (1) through (5). This section does not apply to any winery qualifying as a certified Florida Farm Winery under s. 599.004.*

Section 5. Subsection (1) of section 561.501, Florida Statutes, is amended to read:

561.501 Surcharge on sale of alcoholic beverages for consumption on the premises; penalty.—

(1) Notwithstanding s. 561.50 or any other provision of the Beverage Law, a surcharge of 10 cents is imposed upon each ounce of liquor and each 4 ounces of wine, *a surcharge of 6 cents is imposed on each 12 ounces of cider*, and a surcharge of 4 cents is imposed on each 12 ounces of beer sold at retail for consumption on premises licensed by the division as an alcoholic beverage vendor.

Section 6. Section 561.5101, Florida Statutes, is created to read:

561.5101 *Come-to-rest requirement; exceptions; penalties.—*

(1) *For purposes of inspection and tax-revenue control, all malt beverages, except those manufactured and sold pursuant to s. 561.221(3), must come to rest at the licensed premises of an alcoholic beverage wholesaler in this state before being sold to a vendor by the wholesaler. The prohibition contained in this subsection does not apply to the shipment of malt beverages commonly known as private labels. The prohibition contained in this subsection shall not prevent a manufacturer from shipping malt beverages for storage at a bonded warehouse facility, provided that such malt beverages are distributed as provided in this subsection or to an out-of-state entity.*

(2) *Any person who is in the business of selling alcoholic beverages and who knowingly and intentionally sells malt beverages in a manner inconsistent with the requirements of subsection (1), whether to a vendor or to an ultimate consumer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 7. Subsections (18) and (19) are added to section 561.01, Florida Statutes, to read:

561.01 Definitions.—As used in the Beverage Law:

(18) *"Common carrier" means any person, firm, or corporation that undertakes for hire, as a regular business, the transportation of persons or commodities from place to place, offering its services to all who choose to employ it and pay its charges.*

(19) *"Permit carrier" means a licensee authorized to make deliveries as provided in s. 561.57.*

Section 8. Section 561.54, Florida Statutes, is amended to read:

561.54 Certain deliveries of beverages prohibited.—

(1) It is unlawful for common or permit carriers, operators of privately owned cars, trucks, buses, or other conveyances or out-of-state manufacturers or suppliers to make delivery from without the state of any alcoholic beverage to any person, association of persons, or corporation within the state, except to qualified manufacturers, distributors, and exporters of such beverages so delivered and to qualified bonded warehouses in this state.

(2) *Any licensee aggrieved by a violation of this section may bring an action in any court of competent jurisdiction to recover for the state all moneys obtained by common carriers or permit carriers; obtained by operators of privately owned cars, trucks, buses, or other conveyances; or obtained by out-of-state manufacturers or suppliers as a result of the delivery of alcoholic beverages in violation of this section, and may obtain a declaratory judgment that an act or practice violates this section and enjoin any person from violating this section. In addition to such relief, the court may order the confiscation and destruction of any alcoholic beverages delivered in violation of this section. In assessing damages, the court shall enter judgment against a defendant for three times the amount of the delivery charges proved or the fair market value of merchandise unlawfully brought into the state. Payment or satisfaction of any judgment under this section, other than for costs and attorney's fees, shall be made in its entirety to the state. In any successful action under this section, the court shall award the plaintiff costs and reasonable attorney's fees.*

Section 9. Section 561.545, Florida Statutes, is created to read:

561.545 *Certain shipments of beverages prohibited; penalties; exceptions.—The Legislature finds that the direct shipment of alcoholic beverages by persons in the business of selling alcoholic beverages to residents of this state in violation of the Beverage Law poses a serious threat to the public health, safety, and welfare, to state revenue collections, and to the economy of the state. The Legislature further finds that the penalties for*

illegal direct shipment of alcoholic beverages to residents of this state should be made adequate to ensure compliance with the Beverage Law and that the measures provided for in this section are fully consistent with the powers conferred upon the state by the Twenty-first Amendment to the United States Constitution.

(1) Any person in the business of selling alcoholic beverages who knowingly and intentionally ships, or causes to be shipped, any alcoholic beverage from an out-of-state location directly to any person in this state who does not hold a valid manufacturer's or wholesaler's license or exporter's registration issued by the Division of Alcoholic Beverages and Tobacco or who is not a state-bonded warehouse is in violation of this section.

(2) Any common carrier or permit carrier or any operator of a privately owned car, truck, bus, or other conveyance who knowingly and intentionally transports any alcoholic beverage from an out-of-state location directly to any person in this state who does not hold a valid manufacturer's or wholesaler's license or exporter's registration or who is not a state-bonded warehouse is in violation of this section.

(3) Any person found by the division to be in violation of subsection (1) shall be issued a notice, by certified mail, to show cause why a cease and desist order should not be issued. Any person who violates subsection (1) within 2 years after receiving a cease and desist order or within 2 years after a prior conviction for violating subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Any common carrier or permit carrier, or any operator of a privately owned car, truck, bus, or other conveyance found by the division to be in violation of subsection (2) as a result of a second or subsequent delivery from the same source and location, within a 2-year period after the first delivery shall be issued a notice, by certified mail, to show cause why a cease and desist order should not be issued. Any person who violates subsection (2) within 2 years after receiving the cease and desist order or within 2 years after a prior conviction for violating subsection (2) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) This section does not apply to the direct shipment of sacramental alcoholic beverages to bona fide religious organizations as authorized by the division or to possession of alcoholic beverages in accordance with s. 562.15(2).

Section 10. Paragraph (a) of subsection (1) of section 561.68, Florida Statutes, is amended to read:

561.68 Licensure; distributor's salesmen.—

(1)(a) Before any person may solicit or sell to vendors or become employed as a salesman of spirituous or vinous beverages for a licensed Florida distributor in accordance with the provisions of this section, such person shall file with the district supervisor of the district of the Division of Alcoholic Beverage and Tobacco in which the distributor's premises is located a sworn application for a license on forms provided by the division. Prior to any application being approved, the division shall require the applicant to file a fee of \$50 and file a set of fingerprints on regular United States Department of Justice forms. *The licensure requirement provided in this paragraph does not apply to the solicitation or sale of cider.*

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

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to alcoholic beverages; repealing s. 561.501, F.S., relating to the surcharge on the sale of alcoholic beverages for consumption on the premises, contingent upon certain conditions being met; amending s. 561.025, F.S.; conforming provisions contingent upon the repeal of s. 561.501, F.S.; amending s. 561.121, F.S.; conforming provisions contingent upon the repeal of s. 561.501, F.S.; providing for a portion of funds from the excise taxes on alcoholic beverages to be transferred to the Children and Adolescents Substance Abuse Trust Fund; amending s. 561.24, F.S.; including manufacturers of wine within a group of manufacturers who may not be licensed as distributors or registered exporters; providing exceptions; amending s. 561.501, F.S.; providing for a surcharge on cider; creating s. 561.5101, F.S.; requiring all malt

beverages to come to rest at a wholesaler's licensed premises prior to sale; providing exceptions; providing penalties; amending s. 561.01, F.S.; providing definitions; amending s. 561.54, F.S.; providing for injunctive relief; providing for confiscation and destruction of certain alcoholic beverages; providing for treble damages; providing for costs and attorney's fees; creating s. 561.545, F.S.; providing legislative intent; prohibiting the direct shipment of alcoholic beverages to any person in the state other than a licensed manufacturer or wholesaler, registered exporter, or state bonded warehouse; providing penalties; providing exceptions; amending s. 561.68, F.S., relating to the licensure of salesmen of spirituous or vinous beverages; providing an exception; providing an effective date.

Senator Ostalkiewicz moved the following amendment to **Amendment 1** which failed:

Amendment 1A (with title amendment)—On page 6, line 28 through page 7, line 18, delete section 6 and renumber subsequent sections.

And the title is amended as follows:

On page 12, lines 6-9, delete those lines and insert: amending s.

The question recurred on **Amendment 1** which was adopted.

On motion by Senator Casas, by two-thirds vote **CS for CS for HB 725** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Bankhead	Forman	Klein	Silver
Brown-Waite	Grant	Kurth	Sullivan
Burt	Gutman	Lee	Thomas
Campbell	Hargrett	McKay	Turner
Casas	Harris	Meadows	Williams
Childers	Holzendorf	Myers	
Crist	Jenne	Rossin	
Dyer	Jones	Scott	

Nays—5

Dantzler	Horne	Latvala	Ostalkiewicz
Dudley			

Vote after roll call:

Yea—Bronson

Nay—Cowin

Yea to Nay—Brown-Waite

On motion by Senator Harris, by two-thirds vote **HB 835** was withdrawn from the Committees on Commerce and Economic Opportunities; and Ways and Means.

On motion by Senator Harris—

HB 835—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.11, F.S.; authorizing, rather than requiring, taxpayers who are required to remit taxes by electronic funds transfer to make returns in a form initiated through an electronic data interchange; providing an effective date.

—a companion measure, was substituted for **SB 1502** and read the second time by title. On motion by Senator Harris, by two-thirds vote **HB 835** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Bankhead	Childers	Dyer	Holzendorf
Bronson	Cowin	Forman	Horne
Brown-Waite	Crist	Grant	Jenne
Burt	Dantzler	Gutman	Jones
Campbell	Diaz-Balart	Hargrett	Klein
Casas	Dudley	Harris	Kurth

Latvala	Myers	Scott	Thomas
Lee	Ostalkiewicz	Silver	Turner
McKay	Rossin	Sullivan	Williams
Meadows			

Nays—None

Vote after roll call:

Yea—Madam President

THE PRESIDENT PRESIDING

On motion by Senator Forman, by two-thirds vote **HB 1965** was withdrawn from the Committees on Health Care; Community Affairs; and Ways and Means.

On motion by Senator Forman, the rules were waived and—

HB 1965—A bill to be entitled An act relating to health care; creating s. 154.501, F.S.; creating the “Primary Care for Children and Families Challenge Grant Act”; creating s. 154.502, F.S.; providing legislative findings and intent; creating s. 154.503, F.S.; providing for the creation and administration of the Primary Care for Children and Families Challenge Grant Program; creating s. 154.504, F.S.; providing for eligibility and benefits; creating s. 154.505, F.S.; providing an application process and requirements; authorizing contracts for health care services; creating s. 154.506, F.S.; providing for primary care for children and families challenge grant awards; providing for local matching funds; requiring a study and a report; directing the Agency for Health Care Administration to seek federal waivers; repealing s. 766.1115(12), F.S., relating to expiration of the Access to Health Care Act; providing an effective date.

—a companion measure, was substituted for **CS for SB 504** and by two-thirds vote read the second time by title.

Senators Forman and Myers offered the following amendment which was moved by Senator Myers and adopted:

Amendment 1 (with title amendment)—On page 9, between lines 8 and 9, insert:

Section 10. Subsection (1) of section 236.0812, Florida Statutes, is amended to read:

236.0812 Medicaid certified school funding maximization.—

(1) Each school district, subject to the provisions of *ss. s. 409.9071 and 409.908(21), appropriate federal authorization*, and this section, is authorized to certify funds provided for *school-based physical and behavioral health and transportation, occupational, and speech therapy services* for the purpose of earning federal Medicaid financial participation. *While not limited to these services, each participating school district must place an emphasis on direct medically related nursing services.*

Section 11. Section 409.904, Florida Statutes, 1996 Supplement, 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 who *are determined the department 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 department* to be disabled, whose income is at or below 100 percent of federal poverty level, and whose assets do not exceed *established* limitations established *by the 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 *established* limitations established *by the 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 developmentally disabled.

(3) A person who is in need of the services of a licensed nursing facility, a licensed intermediate care facility for the developmentally disabled, 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.

(5) *Subject to specific federal authorization, a postpartum woman living in a family that has an income that is at or below 185 percent of the most current federal poverty level is eligible for family planning services as specified in s. 409.905(3) for a period of up to 24 months following a pregnancy for which Medicaid paid for pregnancy-related services.*

Section 12. Subsection (3) of section 409.905, Florida Statutes, 1996 Supplement, is amended to read:

409.905 Mandatory Medicaid services.—The agency may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be provided only when medically necessary and in accordance with state and federal law. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, number of services, or any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216.

(3) FAMILY PLANNING SERVICES.—The agency shall pay for services necessary to enable a recipient voluntarily to plan family size or to space children. These services include information; education; *counseling regarding the availability, benefits, and risks of each method of pregnancy prevention*; drugs and supplies; and necessary medical care and followup. Each recipient participating in the family planning portion of the Medicaid program must be provided freedom to choose any alternative method of family planning, as required by federal law.

Section 13. Subsection (1) of section 409.9071, Florida Statutes, 1996 Supplement, is amended to read:

409.9071 Medicaid provider agreements for school districts certifying state match.—

(1) Subject to any limitations provided for in the General Appropriations Act, the agency, in compliance with appropriate federal authorization, shall develop policies and procedures to allow for certification of state and local education funds which have been provided for *services as authorized in s. 236.0812 physical, occupational, and speech therapy services*. Any state or local funds certified pursuant to this section shall be for children with specified disabilities who are eligible for both Medicaid and the exceptional student education program, and who have an individualized educational plan that demonstrates that such services are medically necessary and a physician authorization order *if where* required by federal Medicaid laws.

Section 14. Subsection (21) of section 409.908, Florida Statutes, 1996 Supplement, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, 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, competitive bidding pursuant to s. 287.057, 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 or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(21) The agency may reimburse school districts which certify the state match pursuant to s. 409.9071 for the federal portion of ~~either the Medicaid fee or the school district's allowable costs to deliver the services, subject to federal approval whichever is less.~~ The school district shall determine the allowable costs for delivering ~~therapy~~ services as authorized in s. 236.0812 for which the state Medicaid match will be certified, based on the policies and procedures published by the agency. Reimbursement of school-based therapy providers is contingent on such providers being enrolled as Medicaid therapy providers and meeting the qualifications contained in 42 C.F.R. s. 440.110, unless otherwise waived by the federal Health Care Financing Administration. Speech therapy providers who are certified through the Department of Education pursuant to rule 6A-4.0176, Florida Administrative Code, may bill for services that are provided on school premises.

Section 15. Subsection (3) of section 409.912, Florida Statutes, 1996 Supplement, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency 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, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency 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.

(3) The agency may contract with:

(a) An entity that provides no prepaid health care services other than Medicaid services under contract with the agency and which is owned and operated by a county, county public health unit, or county-owned and operated hospital to provide health care services on a prepaid or fixed-sum basis to recipients, which entity may provide such prepaid services either directly or through arrangements with other providers. Such prepaid health care services entities must be licensed under parts I and III by July 1, 1997, and until then are exempt from the provisions of part I of chapter 641. An entity recognized under this paragraph which demonstrates to the satisfaction of the Department of Insurance that it is backed by the full faith and credit of the county in which it is located may be exempted from s. 641.225.

(b) An entity that is providing comprehensive inpatient and outpatient mental health care services to certain Medicaid recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk Counties, through a capitated, prepaid arrangement pursuant to the federal waiver provided for by s. 409.905(5). Such an entity must become licensed under chapter 624 or chapter 641 by December 31, 1998, and is exempt from the provisions of part I of chapter 641 until then. However, if the entity assumes risk, the Department of Insurance shall develop appropriate regulatory requirements by rule under the insurance code before the entity becomes operational.

(c) A federally qualified health center or an entity owned by one or more federally qualified health centers or an entity owned by other migrant and community health centers receiving non-Medicaid financial support from the Federal Government to provide health care services on a prepaid or fixed-sum basis to recipients. Such prepaid health care services entity must be licensed under parts I and III of chapter 641 by July 1, 1997. However, such an entity is exempt from s. 641.225 if the entity meets the requirements specified in subsections (14) and (15).

(d) *No more than four provider service networks for demonstration projects to test Medicaid direct contracting. However, no such demonstration project shall be established with a Federally Qualified Health Center nor shall any provider service network under contract with the agency pursuant to this paragraph include a Federally Qualified Health Center*

in its provider network. One demonstration project must be located in Orange County. The demonstration projects may be reimbursed on a fee-for-service or prepaid basis. A provider service network which is reimbursed by the agency on a prepaid basis shall be exempt from parts I and III of chapter 641, but must meet appropriate financial reserve, quality assurance and patient rights requirements as established by the agency. The agency shall award contracts on a competitive bid basis and shall select bidders based upon price and quality of care. Medicaid recipients assigned to a demonstration project shall be chosen equally from those who would otherwise have been assigned to prepaid plans and MediPass. The agency is authorized to seek federal Medicaid waivers as necessary to implement the provisions of this section. A demonstration project awarded pursuant to this paragraph shall be for two years from the date of implementation.

Section 16. *The Agency for Health Care Administration shall develop a program, in conjunction with the Department of Education, the Department of Children and Family Services, the Department of Health, local school districts, and other stakeholders to identify low-income, uninsured children and, to the extent possible and subject to appropriation, refer them to the Department of Children and Family Services for a Medicaid eligibility determination and provide parents with information about alternative sources of health care.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 21, after the semicolon (;) insert: amending s. 236.0812, F.S.; authorizing certified match for expanded school-based services; amending s. 409.904, F.S.; providing technical changes; amending s. 409.905, F.S.; authorizing a preventive focus for Medicaid family planning services; amending s. 409.9071, F.S.; incorporating conforming revisions; amending s. 409.908, F.S.; modifying the Medicaid reimbursement for certified match services; amending s. 409.912, F.S.; authorizing Medicaid to enter prepaid contracts with provider service networks; directing the Agency for Health Care Administration to develop a program to inform certain persons about sources of health care;

Senator Myers moved the following amendment which was adopted:

Amendment 2 (with title amendment)—On page 9, between lines 8 and 9, insert:

Section 10. Present subsections (20) and (21) of section 409.906, Florida Statutes, 1996 Supplement, are renumbered as subsections (21) and (22), respectively, and a new subsection (20) is added to that section to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Optional services may include:

(20) *REGISTERED NURSE FIRST ASSISTANT SERVICES.*—*The agency may pay for all services provided to a recipient by a registered nurse first assistant as described in s. 464.027. Reimbursement for such services may not be less than 80 percent of the reimbursement that would be paid to a physician providing the same services.*

Section 11. Subsection (1) of section 409.9071, Florida Statutes, 1996 Supplement, is amended to read:

409.9071 Medicaid provider agreements for school districts certifying state match.—

(1) Subject to any limitations provided for in the General Appropriations Act, the agency, in compliance with appropriate federal authorization, shall develop policies and procedures to allow for certification of state and local education funds which have been provided for ~~services as authorized in s. 236.0812 physical, occupational, and speech therapy services.~~ Any state or local funds certified pursuant to this section shall

be for children with specified disabilities who are eligible for both Medicaid and the exceptional student education program, and who have an individualized educational plan that demonstrates that such services are medically necessary and a physician authorization order if where required by federal Medicaid laws.

Section 12. Present paragraphs (q), (r), and (s) of subsection (3) of section 409.908, Florida Statutes, 1996 Supplement, are redesignated as paragraphs (r), (s), and (t), respectively, and a new paragraph (q) is added to that subsection, and subsection (21) of that section is amended, to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, 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, competitive bidding pursuant to s. 287.057, 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 or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(3) Subject to any limitations or directions provided for in the General Appropriations Act, the following Medicaid services and goods may be reimbursed on a fee-for-service basis. For each allowable service or goods furnished in accordance with Medicaid rules, policy manuals, handbooks, and state and federal law, the payment shall be 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, with the exception of those services or goods for which the agency makes payment using a methodology based on capitation rates, average costs, or negotiated fees.

(q) Registered nurse first assistant services.

(21) The agency may reimburse school districts which certify the state match pursuant to s. 409.9071 for the federal portion of either the Medicaid fee or the school district's allowable costs to deliver the services, subject to federal approval whichever is less. The school district shall determine the allowable costs for delivering therapy services as authorized in s. 236.0812 for which the state Medicaid match will be certified, based on the policies and procedures published by the agency. Reimbursement of school-based therapy providers is contingent on such providers being enrolled as Medicaid therapy providers and meeting the qualifications contained in 42 C.F.R. s. 440.110, unless otherwise waived by the federal Health Care Financing Administration. Speech therapy providers who are certified through the Department of Education pursuant to rule 6A-4.0176, Florida Administrative Code, may bill for services that are provided on school premises.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 21, after the semicolon (;) insert: amending s. 409.906, F.S.; authorizing the Agency for Health Care Administration to pay for certain services provided by a registered nurse first assistant; amending s. 409.9071, F.S.; incorporating conforming revisions; amending s. 409.908, F.S.; authorizing the Agency for Health Care Administration to pay for certain services provided by a registered nurse first assistant; modifying the Medicaid reimbursement for certified match services;

On motion by Senator Forman, by two-thirds vote HB 1965 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Madam President Bronson Burt Casas
Bankhead Brown-Waite Campbell Childers

Cowin Hargrett Latvala Silver
Crist Harris Lee Sullivan
Dantzler Holzendorf McKay Thomas
Dudley Horne Meadows Turner
Dyer Jenne Myers Williams
Forman Jones Ostalkiewicz
Grant Klein Rossin
Gutman Kurth Scott

Nays—None

CS for CS for SB 976—A bill to be entitled An act relating to consumer protection; amending ss. 496.405, 496.419, 496.420, and 496.424, F.S.; revising the provisions of the Solicitation of Contributions Act to revise the authority of the Department of Agriculture and Consumer Services to make rules; establishing a fee; providing authority of the department with respect to registration and solicitation requirements; amending ss. 501.013, 501.014, 501.015, 501.016, and 501.019, F.S.; revising provisions of law regulating health studios to provide an exemption from regulation for certain country clubs, to authorize rules, to eliminate a penalty for certain late registrations, to require the registration number in certain printed material, to revise provisions relating to security requirements, and to revise penalties with respect to health studio violations; amending s. 501.021, F.S.; deleting the definition of "division" with respect to home solicitation sales; amending s. 501.022, F.S.; deleting language with respect to persons engaging in home solicitation sales in more than one county in the state to eliminate certain certificates; amending s. 501.052, F.S.; providing that the Attorney General or state attorney shall enforce the act; amending s. 501.143, F.S.; providing for registration fees with respect to dance studios; eliminating reference to such fees set by the department; providing for penalties for violations of rules or orders adopted pursuant to such rules; revising provisions with respect to rulemaking authority; amending s. 501.605, F.S.; providing for the fee for licensing of commercial telephone sellers; deleting reference to the authority of the department to set such fees; amending s. 501.607, F.S.; revising provisions with respect to licensure of salespersons; eliminating reference to the department to set license fees; amending s. 501.612, F.S.; revising provisions with respect to grounds for denial of licensure; amending s. 501.626, F.S.; revising provisions with respect to rulemaking authority; amending s. 539.001, F.S.; revising the Florida Pawnbroking Act to provide definitions, to provide that local occupational licenses may not be issued without providing proof of a state license; revising provisions with respect to administrative penalties; providing for a notice of noncompliance rather than a letter of concern, and to provide for rulemaking authority; amending ss. 559.801-559.813, F.S.; revising the Sale of Business Opportunities Act; revising definitions; revising provisions with respect to the disclosure statement; providing increased requirements with respect to required filings with the department; requiring that written contracts be given to the purchaser at a certain number of days before signing; revising provisions with respect to remedies and enforcement; providing for rulemaking authority; amending ss. 559.903, 559.904, 559.905, 559.921, and 559.9221, F.S.; revising the Florida Motor Vehicle Repair Act; revising definitions; revising the registration fee schedule; revising requirements with respect to registration certificates; providing criteria for denying or refusing to renew the registration of a motor vehicle repair shop; providing for additional remedies; revising provisions with respect to the Motor Vehicle Repair Advisory Council; creating s. 559.92201, F.S.; providing for rulemaking authority; amending s. 559.927, F.S.; revising the definition of the term "seller of travel" with respect to the Florida Sellers of Travel Act; amending s. 559.928, F.S.; providing registration fees; requiring an annual affidavit by each independent agent; defining the term "independent agent"; amending s. 559.929, F.S.; revising provisions with respect to security requirements; amending s. 559.9295, F.S.; providing for the effect of the submission of vacation certificate documents; providing for alternative document filing; establishing the time-frame for the department to respond with respect to document submissions; amending s. 559.9335, F.S.; providing for additional acts which are violations; revising provisions with respect to rules; amending s. 559.9355, F.S.; revising provisions with respect to administrative remedies and penalties; repealing s. 559.8015, F.S., relating to applicability to advertisers of business opportunities; providing an effective date.

—was read the second time by title.

Amendments were considered to conform CS for CS for SB 976 to HB 1619.

Pending further consideration of **CS for CS for SB 976** as amended, on motion by Senator Williams, by two-thirds vote **HB 1619** was withdrawn from the Committees on Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Williams—

HB 1619—A bill to be entitled An act relating to consumer protection; amending ss. 496.405, 496.419, 496.420, and 496.424, F.S.; revising the provisions of the Solicitation of Contributions Act to revise the authority of the Department of Agriculture and Consumer Services to make rules; establishing a fee; providing authority of the department with respect to registration and solicitation requirements; amending ss. 501.013, 501.014, 501.015, 501.016, and 501.019, F.S.; revising provisions of law regulating health studios to provide an exemption from regulation for certain country clubs, to authorize rules, to eliminate a penalty for certain late registrations, to require the registration number in certain printed material, to revise provisions relating to security requirements, and to revise penalties with respect to health studio violations; providing retroactive application of an exemption under certain circumstances; amending s. 501.021, F.S.; deleting the definition of "division" with respect to home solicitation sales; amending s. 501.022, F.S.; deleting language with respect to persons engaging in home solicitation sales in more than one county in the state to eliminate certain certificates; amending s. 501.052, F.S.; providing that the Attorney General or state attorney shall enforce the act; amending s. 501.143, F.S.; providing for registration fees with respect to dance studios; eliminating reference to such fees set by the department; providing for penalties for violations of rules or orders adopted pursuant to such rules; revising language with respect to rulemaking authority; amending s. 501.605, F.S.; providing for the fee for licensing of commercial telephone sellers; deleting reference to the authority of the department to set such fees; amending s. 501.607, F.S.; revising language with respect to licensure of salespersons; eliminating reference to the department to set license fees; amending s. 501.612, F.S.; revising language with respect to grounds for denial of licensure; amending s. 501.626, F.S.; revising language with respect to rulemaking authority; amending s. 501.925, F.S.; revising conditions under which a watch is considered a used watch; amending s. 539.001, F.S.; revising the Florida Pawnbroking Act to provide definitions, to provide that local occupational licenses may not be issued without providing proof of a state license, revising language with respect to administrative penalties; providing for a notice of noncompliance rather than a letter of concern, and to provide for rulemaking authority; amending ss. 559.801-559.813, F.S.; revising the Sale of Business Opportunities Act; revising definitions; revising language with respect to the disclosure statement; providing increased requirements with respect to required filings with the department; requiring that written contracts be given to the purchaser at a certain number of days before signing; revising provisions with respect to remedies and enforcement; providing for rulemaking authority; amending ss. 559.903, 559.904, 559.905, 559.921, and 559.9221, F.S.; revising the Florida Motor Vehicle Repair Act; revising definitions; revising the registration fee schedule; revising requirements with respect to registration certificates; providing criteria for denying or refusing to renew the registration of a motor vehicle repair shop; providing for additional remedies; revising language with respect to the Motor Vehicle Repair Advisory Council; creating s. 559.92201, F.S.; providing for rulemaking authority; amending s. 559.927, F.S.; revising the definition of the term "seller of travel" with respect to the Florida Sellers of Travel Act; amending s. 559.928, F.S.; providing registration fees; requiring an annual affidavit by each independent agent; defining the term "independent agent"; amending s. 559.929, F.S.; revising language with respect to security requirements; amending s. 559.9295, F.S.; providing for the effect of the submission of vacation certificate documents; providing for alternative document filing; establishing the timeframe for the department to respond with respect to document submissions; amending s. 559.9335, F.S.; providing for additional acts which are violations; revising language with respect to rules; amending s. 559.9355, F.S.; revising language with respect to administrative remedies and penalties; repealing s. 559.8015, F.S., relating to applicability to advertisers of business opportunities; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 976** as amended and read the second time by title. On motion by Senator Williams, by two-thirds vote **HB 1619** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Madam President	Dudley	Jones	Ostalkiewicz
Bronson	Dyer	Klein	Rossin
Brown-Waite	Forman	Kurth	Scott
Burt	Grant	Latvala	Silver
Casas	Gutman	Lee	Sullivan
Cowin	Harris	McKay	Turner
Crist	Horne	Meadows	Williams
Dantzler	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Bankhead, Childers, Clary, Thomas

On motion by Senator Horne, the Senate resumed consideration of—

SB 1830—A bill to be entitled An act relating to evidence; amending s. 90.803, F.S.; providing additional exceptions to the prohibition against hearsay evidence; providing an effective date.

—which was previously considered and amended this day.

Pending further consideration of **SB 1830** as amended, on motion by Senator Horne, by two-thirds vote **CS for HB 1597** was withdrawn from the Committee on Judiciary.

On motion by Senator Horne—

CS for HB 1597—A bill to be entitled An act relating to evidence; amending s. 90.803, F.S.; providing additional exceptions to the prohibition against hearsay evidence; providing an effective date.

—a companion measure, was substituted for **SB 1830** as amended and read the second time by title.

Senator Horne moved the following amendment which was adopted:

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

Section 1. Subsection (22) of section 90.803, Florida Statutes, 1996 Supplement, is amended to read:

90.803 Hearsay exceptions; availability of declarant immaterial.—The provision of s. 90.802 to the contrary notwithstanding, the following are not inadmissible as evidence, even though the declarant is available as a witness:

(22) FORMER TESTIMONY.—Former testimony given by the declarant *which testimony was given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, or a person with a similar interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination, provided, however, the court finds that the testimony is not inadmissible pursuant to s. 90.402 or s. 90.403. at a civil trial, when used in a retrial of said trial involving identical parties and the same facts.*

Section 2. This act shall take effect July 1, 1997 and shall apply to pending cases in which the final pretrial conference occurs on or after that date.

And the title is amended as follows:

On page 1, line 3, delete "providing additional exceptions" and insert: revising an exception

Pursuant to Rule 4.19, **CS for HB 1597** as amended was placed on the calendar of Bills on Third Reading.

MOTION

On motion by Senator Bankhead, the rules were waived and by two-thirds vote all bills remaining on the Special Order Calendar this day were placed on the Special Order Calendar for Thursday, May 1.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Wednesday, April 30 and Thursday, May 1, 1997: CS for CS for SB 1548 and CS for SB 1434, CS for SB 1404, CS for SB 2228, CS for SB 1654, CS for SB 1578, CS for CS for SB 1660, SB 1830, CS for HB 703, CS for SB 716, CS for CS for SB's 1566 and 114, CS for CS for SB 722, CS for SB 2362, CS for SB's 1428, 1388, 1562 and 1252, CS for CS for SB 1074, SB 1038, CS for CS for SB 214, CS for CS for CS for SB 336 and CS for SB's 1216 and 2024, SB 1502, CS for SB 504, CS for CS for SB 976, CS for SB 1398, SB 388, CS for SB 1592, CS for CS for SB 690, CS for SB 584, SB 2342, CS for SB 746, CS for CS for SB 170, CS for SB 2352, CS for SB 1822, CS for SB 1432, CS for SB 1920, CS for SB 564, SB 840, SJR 844, CS for SB 2086, CS for SB 1760, CS for CS for SB 1412, CS for CS for SB 546, SB 1270, CS for SB 2066, CS for SB 2186, CS for SB 2048, CS for CS for SB 526, CS for SB 748, CS for SB 1094, CS for SB 2436, CS for SB 2450, CS for SB 1422, SB 2272, CS for SB 888, CS for SB 598, CS for SB 1132, SB 450, SB 678, SB 354, SB 240, SB 620, CS for SB 1360, CS for SB 238, SB 1102, CS for SB 936, SB 252, CS for SB 1880, CS for SB 1228, CS for CS for SB 514, CS for SB 774, CS for SB 2310, SB 126, SB 1784, SB 2346, SB 2062, SB 686, SB 2058, SB 14, CS for SB 1362, CS for SB's 234 and 456, CS for CS for SB 1532, CS for SB 998, CS for SB's 818, 1136 and 1242, SB 714, CS for SB 1148, CS for SB 250, CS for SB 402, CS for SB 1244, CS for SB 1598, SB 1496, CS for SB 490, CS for SB 1456, CS for SB 650, SB 830, SB 56, CS for SB's 1678 and 2404, SB 1662, CS for SB's 1846 and 1876, SB 838, CS for SB 724, CS for SB 1012, CS for SB 612, SB 824, SB 826, SB 382, CS for SB 1128, CS for SB 74, CS for SB 112, CS for SB 1850, SB 864, SB 162, SB 996, SB 2002, SB 1028, CS for SB 1006, SB 1470, CS for CS for SB 1020, SB 190, CS for SB 2374, CS for SB 680, SB 1372, CS for SB 1346, CS for SB 1686, SB 1030, SB 1980, CS for SB 914, SB 42, SB 1484, CS for SB 770, CS for SB 1214, SB 1016, CS for SB 470, CS for CS for SB 1234, CS for SB 894, CS for SB 1248, CS for SB 1466, SB 1092, CS for SB 876, SB 172, SB 1304, CS for SB 1594, CS for SB's 1964 and 1742, CS for SB 2038, CS for CS for SB 2194, SB 2282, SB 468, CS for SB 904, SB 988, SB 660, CS for SB 362, CS for CS for SB 364, SB 1292, SB 1634, CS for SB 700, CS for SB 910, CS for SB 1056, SB 1810, SB 1812, SB 1906, SB 204, SB 400, CS for SB 946, SB 2054

Respectfully submitted,
W. G. (Bill) Bankhead, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Wednesday, April 30, 1997: HB 295, HB 421, HB 423, HB 427, HB 429, HB 515, HB 517, HB 519, HB 521, HB 567, HB 569, HB 591, HB 593, HB 595, HB 597, HB 619, HB 621, HB 623, HB 635, HB 637, HB 645, HB 655, HB 783, HB 917, HB 927, HB 951, HB 959, HB 961, HB 1103, HB 1173, HB 1265, HB 1281, HB 1283, HB 1285, HB 1293, HB 1305, HB 1315, HB 1365, HB 1383, HB 1389, HB 1401, HB 1431, HB 1459, HB 1473, HB 1477, HB 1517, HB 1659, HB 1709, HB 1729, HB 1765, HB 1773, HB 1907, HB 1953, HB 1987, HB 2003, HB 2021, HB 2027, HB 2029, HB 1291, HB 1655, HB 571, HB 871, HB 425

Respectfully submitted,
W. G. (Bill) Bankhead, Chairman

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State SB 52, CS for SB 360 and SB 406 which became law without his signature on April 30, 1997.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES**FIRST READING**

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 803, CS for HB 815, CS for HB 879, CS for HB 921,

CS for HB 1275, HB 1625, HB 1693, HB 2099; has passed as amended CS for HB 117, CS for HB 241, CS for HB 767, HB 1045, HB 1109, CS for CS for HB's 1119 and 1577, CS for HB's 1309, 1143, 847, 697, 1391 and 203, HB 1323, CS for HB 1437, HB 1487, HB 1519, CS for HB 1589, HB 1853, HB 1957, HB 1965, HB 2121; has passed by the required Constitutional three-fifths vote of the membership HB 1271, CS for HB 1319 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Elder Affairs and Long Term Care; and Representative Eggleston—

CS for HB 803—A bill to be entitled An act relating to Alzheimer's disease; creating s. 400.4178, F.S.; providing standards for facilities that provide special care for persons with Alzheimer's disease and other related disorders; providing employee training requirements; providing continuing education requirements; providing for approval of education courses and providers; providing for fees; providing for rules; amending s. 400.452, F.S.; including education on Alzheimer's disease and related disorders in the core educational requirement for facility administrators and staff; providing an effective date.

—was referred to the Committees on Children, Families and Seniors; and Ways and Means.

By the Committee on Governmental Operations and Representative Wallace—

CS for HB 815—A bill to be entitled An act relating to state government; providing legislative intent; providing duties of procuring agencies relating to procurement contracts; imposing certain duties on the Comptroller; providing application; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Ways and Means.

By the Committee on Governmental Rules and Regulations; and Representative Posey and others—

CS for HB 879—A bill to be entitled An act relating to administrative procedure; creating s. 120.571, F.S., the "Agency Accountability Act of 1997"; providing for court orders imposing liability upon an agency which has made a determination affecting the substantial interests of a party based on a grossly negligent assessment of material facts, under specified circumstances; providing for agency liability for actual damages and attorney's fees incurred by the party suffering financial harm as a result of the determination; providing for waiver of sovereign immunity; specifying applicability; providing an effective date.

—was referred to the Committees on Judiciary; and Governmental Reform and Oversight.

By the Committee on Education/K-12 and Representative Boyd and others—

CS for HB 921—A bill to be entitled An act relating to expenditure requirements for education programs; amending s. 236.081, F.S., relating to funds for operation of schools; requiring school districts to allocate at least 80 percent of specified funds to the schools generating the funds; providing an effective date.

—was referred to the Committees on Education; and Ways and Means.

By the Committee on Finance and Taxation; and Representative Valdes and others—

CS for HB 1275—A bill to be entitled An act relating to taxation; providing legislative intent with respect to the municipal public service

tax; amending s. 166.231, F.S.; providing that specified governmental bodies are exempt from said tax; exempting certain religious institutions from the tax on telecommunication services; providing that state universities shall not be deemed sellers of taxable items under certain circumstances; revising provisions relating to determination of the situs of telecommunication services; providing requirements for returns and remittance of the tax on telecommunication services; requiring certain purchasers claiming exemptions to certify that they are qualified therefor; requiring governmental bodies that sell taxable services to nonexempt users to collect and remit the tax; creating s. 166.233, F.S.; providing requirements for levy of the tax; specifying effective dates; providing duties of the Department of Revenue; requiring municipalities to furnish certain information relating to the tax to the Department of Revenue and to other persons; providing for fees; providing limitations on the responsibilities of sellers if information is not furnished as required; providing procedures that apply when more than one municipality claims an address or when information does not conform to the seller's address records; creating s. 166.234, F.S.; providing procedures for audits of sellers by municipalities; prohibiting contingent fee audits; prescribing record retention requirements for sellers; providing time limitations on assessments of taxes and on applications for refunds or credits; providing for offsets of overpayments against underpayments and for refunds and credits; authorizing municipalities to assess interest and penalties; providing requirements with respect to a determination by a municipality of amounts of tax; providing protest procedures and judicial remedies; providing for settlement or compromise of a seller's liability for taxes; providing for interest on refunds if a law is enacted requiring interest on sales or gross receipts tax refunds; providing rights and duties of municipalities and sellers; providing for communications between municipalities with respect to specified matters relating to audits and the identities of sellers; prescribing the circumstances for assessment of audit expenses against a seller; providing a schedule for application of the requirements of the act; amending ss. 203.01 and 203.63, F.S., relating to taxes on gross receipts for utility services and on interstate and international telecommunication services; specifying that certain sums charged as taxes under said sections and under ch. 212, F.S., shall not be subject to refund, notwithstanding requirements relating to separate statement of such taxes on bills or invoices; providing legislative intent; providing an appropriation; providing for severability; providing an effective date.

—was referred to the Committees on Community Affairs; Regulated Industries; and Ways and Means.

By the Committee on Health Care Standards and Regulatory Reform; and Representative Dawson-White and others—

HB 1625—A bill to be entitled An act relating to transitional living facilities for brain and spinal cord injured persons; creating pt. IX of ch. 400, F.S.; creating s. 400.905, F.S.; providing for licensure of transitional living facilities; creating s. 400.906, F.S.; providing definitions; creating s. 400.907, F.S.; establishing license and fee requirements; creating s. 400.908, F.S.; regulating sale or transfer of ownership of a facility; creating s. 400.909, F.S.; providing for denial, revocation, or suspension of a license and imposition of an administrative fine; creating s. 400.910, F.S.; providing for a moratorium on admissions; creating s. 400.911, F.S.; providing for initial licensure application; creating s. 400.912, F.S.; providing for renewal, expiration, and conditional licenses; creating s. 400.913, F.S.; requiring reports of abuse in facilities; creating s. 400.914, F.S.; providing for disposition of fees and fines; creating s. 400.915, F.S.; providing for violations and penalties; creating s. 400.916, F.S.; prohibiting rebates; providing penalties; creating s. 400.917, F.S.; prohibiting certain solicitations; allowing certain third-party supplementation; creating s. 400.918, F.S.; providing for injunctive proceedings; creating s. 400.919, F.S.; providing for receivership proceedings; creating s. 400.920, F.S.; providing for contracts; creating s. 400.921, F.S.; providing requirements for use of licensed personnel; creating s. 400.922, F.S.; providing for appropriateness of placements and examination of residents; creating s. 400.923, F.S.; providing for property and personal affairs of residents; providing a penalty; creating s. 400.924, F.S.; providing a resident bill of rights; creating 400.925, F.S.; providing for civil actions to enforce rights; creating s. 400.926, F.S.; providing right of entry and inspection; creating s. 400.927, F.S.; providing procedures for closing of facilities, including notice and penalties; creating s. 400.928, F.S.; providing for rules establishing standards; creating s. 400.929, F.S.; providing for maintenance of records and reports; amending s.

413.605, F.S.; providing additional duty of the advisory council on brain and spinal cord injuries; amending s. 413.273, F.S.; revising per diem and travel expenses for members of certain councils; amending s. 413.395, F.S.; authorizing incorporation of the Florida Independent Living Council; authorizing members' compensation and reimbursement for child care; amending s. 413.405, F.S., relating to the Rehabilitation Advisory Council; authorizing members' reimbursement for child care; repealing s. 400.805, F.S., relating to transitional living facilities for brain and spinal cord injured persons; providing an effective date.

—was referred to the Committees on Commerce and Economic Opportunities; Governmental Reform and Oversight; and Ways and Means.

By the Committee on Tourism and Representative Barreiro and others—

HB 1693—A bill to be entitled An act relating to public lodging establishments; amending s. 509.215, F.S.; revising firesafety requirements for specified public lodging establishments; deleting obsolete language; amending s. 509.242, F.S.; revising classifications for public lodging establishments; providing that such classifications are for licensing purposes only; providing classification for "home stay inn"; amending s. 553.895, F.S.; removing obsolete firesafety requirements for public lodging establishments within the Florida Building Codes Act; providing an effective date.

—was referred to the Committees on Community Affairs; Banking and Insurance; and Ways and Means.

By the Committee on General Government Appropriations and Representative K. Pruitt—

HB 2099—A bill to be entitled An act relating to state moneys; amending s. 216.167, F.S.; requiring the Governor's recommended budget and revenues to include estimates of the Budget Stabilization Fund; 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 such moneys into such funds; specifying the use and investment of moneys in such funds; repealing ss. 212.081(3) and 420.5094, F.S., relating to legislative intent on certain moneys available in excess of general revenue needs that accrue to the Working Capital Fund and relating to the single-family mortgage revenue bond program, and amending ss. 216.221 and 252.37, F.S., relating to the financing of deficits and emergencies, to conform; amending ss. 265.51 and 265.55, F.S.; restricting authority of the Department of State to make agreements to indemnify for certain losses relating to items of artistic or historical value, and of the Comptroller to pay such claims, to specific appropriations for that purpose, to conform; providing an effective date.

—was referred to the Committee on Ways and Means.

By the Committee on Business Development and International Trade; and Representative Culp and others—

CS for HB 117—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; revising the definition of educational institutions for purposes of exemption; providing an exemption for the Gasparilla Distance Classic Association, Inc., in specified circumstances; providing an effective date.

—was referred to the Committees on Commerce and Economic Opportunities; and Ways and Means.

By the Committee on Crime and Punishment; and Representative Valdes and others—

CS for HB 241—A bill to be entitled An act relating to sentencing; repealing ss. 921.001, Florida Statutes, subsections (1), (2), (3), (4), (5), (6), (7), (8), and (9) of section 921.0001, Florida Statutes, and sections 921.0011, 921.0012, 921.0013, 921.0014, 921.0015, 921.0016, 921.005,

F.S., relating to the statewide sentencing guidelines; providing for application; creating the Florida Criminal Punishment Code; providing for the code to apply to felonies committed on or after a specified date; creating s. 921.002, F.S.; providing for the Legislature to develop, implement, and revise a sentencing policy; specifying the principles embodied by the Criminal Punishment Code; providing requirements for sentencing a defendant for more than one felony; authorizing a court to impose a sentence below the permissible sentencing range; specifying the level of proof required to justify such a sentence; authorizing a court to impose a sentence above 75 percent of the statutory maximum or 75 percent higher than the code; specifying the level of proof required to justify such a sentence; creating s. 921.0021, F.S.; providing definitions; creating s. 921.0022, F.S.; providing an offense severity ranking chart to be used in computing a sentence score for a felony offender; creating s. 921.0023, F.S.; providing for ranking felony offenses that are unlisted on the severity ranking chart; creating s. 921.0024, F.S.; providing a worksheet for computing sentence points under the Criminal Punishment Code; providing for points to be assessed based on the offender's legal status; providing for sentencing multipliers; providing requirements for the state attorney and the Department of Corrections in preparing scoresheets; requiring the clerk of the circuit court to distribute scoresheets and transmit copies to the Department of Corrections; creating s. 921.0026, F.S.; specifying circumstances that constitute mitigating circumstances for purposes of sentencing; amending s. 20.315, F.S.; deleting a requirement that the Florida Corrections Commission review proposed changes to the statewide sentencing guidelines; amending s. 39.0581, F.S.; providing for the criteria under which a juvenile is committed to a maximum-risk residential program to be based on the ranking of the offense under the Criminal Punishment Code; amending s. 775.0823, F.S.; providing for a person convicted of certain violent offenses against a law enforcement officer, correctional officer, state attorney, assistant state attorney, justice, or judge to be sentenced under the Criminal Punishment Code; amending s. 775.084, F.S.; deleting a requirement that the courts submit reports to the Sentencing Commission; conforming a reference to changes made by the act; amending ss. 775.0845, 775.087, 775.0875, F.S., relating to wearing a mask while committing an offense, possessing a weapon while committing a felony, and taking a law enforcement officer's firearm; requiring that such offenses be ranked under the Criminal Punishment Code; amending s. 777.03, F.S., relating to the offense of being an accessory to a crime; providing for ranking such offense; amending s. 777.04, F.S.; requiring that a person convicted of criminal attempt, criminal solicitation, or criminal conspiracy be sentenced under the Criminal Punishment Code; amending s. 782.051, F.S.; requiring that certain offenses that result in bodily injury be ranked under the Criminal Punishment Code; amending s. 784.08, F.S.; requiring that a person convicted of assault and battery against an elderly person be sentenced under the Criminal Punishment Code; amending ss. 794.023, 874.04, F.S., relating to sexual battery by multiple perpetrators and to criminal street-gang activity; requiring that such offenses be ranked under the offense severity ranking chart of the Criminal Punishment Code; amending s. 893.13, F.S., relating to the offense of selling, manufacturing, or possessing certain controlled substances; conforming provisions to changes made by the act; amending s. 893.135, F.S.; requiring that a person convicted of certain drug-trafficking offenses be sentenced under the Criminal Punishment Code; amending s. 893.20, F.S.; requiring that a person convicted of engaging in a continuing criminal enterprise be sentenced under the Criminal Punishment Code; amending s. 921.187, F.S., relating to disposition and sentencing; conforming provisions to changes made by the act; amending s. 921.188, F.S.; providing certain conditions based on the Criminal Punishment Code under which a felon may be placed in a local detention facility; amending ss. 924.06, 924.07, F.S., relating to appeals; amending a provision that allows a defendant to appeal a sentence imposed outside a range formerly permitted under chapter 921, F.S.; authorizing the state to appeal a sentence imposed below the range permitted by the Criminal Punishment Code; amending s. 944.17, F.S.; requiring that the sentencing scoresheet for a prisoner be submitted to the Department of Corrections; amending ss. 947.141, 947.146, 947.168, F.S., relating to violations of conditional release or control release and parole eligibility; conforming provisions to changes made by the act; amending s. 948.015, F.S., relating to presentence reports; conforming provisions to changes made by the act; amending s. 948.034, F.S., relating to terms and conditions of probation; conforming references; amending s. 948.51, F.S.; revising requirements for a county or county consortium in developing a public safety plan to conform to changes made by the act; amending s. 958.04, F.S., relating to judicial disposition of youthful offenders; providing certain limitations on sentences based on the Criminal Punishment Code; amending s. 921.0014,

F.S.; providing requirements for the state attorney with respect to preparing sentencing scoresheets; amending s. 921.001, F.S.; providing for certain persons sentenced on or after a specified date whose maximum recommended sentence is under a specified period to be eligible for incarceration up to a specified period; amending s. 921.0016, F.S.; deleting a provision that allows and expressly prohibits addition or the use of alcohol or drugs as a mitigating circumstance for purposes of sentencing; providing that capital felonies are excluded from the punishment code; providing clarification for application of future code revisions; providing a directive to the Division of Statutory Revision to maintain certain repealed provisions in the Florida Statutes for 10 years; providing effective dates.

—was referred to the Committees on Criminal Justice; Governmental Reform and Oversight; and Ways and Means.

By the Committee on Crime and Punishment; and Representative Hill—

CS for HB 767—A bill to be entitled An act relating to violations involving checks; amending s. 68.065, F.S.; providing for triple damages, court costs, and attorney's fees with respect to certain civil actions to recover fines due on stop payments on checks, drafts, or orders of payment; amending s. 166.251, F.S.; revising language with respect to service fee for dishonored checks; amending s. 832.07, F.S., relating to prima facie evidence of identity with regard to prosecution of bad check charges; removing "race" as a required element of establishing the identity of the person presenting the check; providing an effective date.

—was referred to the Committee on Criminal Justice.

By Representative Ziebarth and others—

HB 1045—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.052, F.S.; clarifying the benefit payment and calculation procedure under the system; providing for dual calculation of benefits with respect to members of the Elected State and County Officers' Class who initially become members of that class on or after a specific date; providing for matters relative thereto; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Ways and Means.

By Representative Edwards—

HB 1109—A bill to be entitled An act relating to public officers and employees; amending s. 112.3173, F.S., which provides for the forfeiture of retirement benefits by a public officer or employee convicted of specified felony offenses involving breach of the public trust or whose office or employment is terminated by reason of his or her commission or aiding in the commission of such offense; specifying additional offenses for which such forfeiture is required; providing that certain spouses or joint annuitants shall remain eligible for the benefits upon such forfeiture; providing an effective date.

—was referred to the Committee on Executive Business, Ethics and Elections.

By the Committees on General Government Appropriations; Water and Resource Management; and Representative Minton and others—

CS for CS for HB's 1119 and 1577—A bill to be entitled An act relating to public lands; amending s. 253.03, F.S.; extending the submerged lands lease for certain properties; amending s. 253.034, F.S.; specifying objectives of the management of the state's lands and natural resources; providing requirements for multiple-use land management strategies; providing references to the Land Acquisition and Management Council; revising land-management plan adoption processes; correcting a cross reference; amending s. 253.68, F.S.; modifying authority of local government to object to state aquaculture leases; amending s.

253.7825, F.S.; correcting a cross reference; amending s. 259.032, F.S.; providing that a soil and water conservation district shall be considered first as the managing agency with respect to fee-simple acquisitions or acquisitions of less-than-fee interest in certain lands through the Conservation and Recreation Lands (CARL) Trust Fund; directing managing agencies to enter into certain contracts or agreements; requiring notice and public hearing on individual management plans; providing for withholding of CARL management funds to certain agencies; providing management objectives for lands acquired under ch. 259, F.S.; increasing the percentage of funds deposited in the Florida Preservation 2000 Trust Fund available for land management and capital improvements; allowing agencies to keep revenues generated from activities on lands they manage; revising provisions relating to payments in lieu of taxes; amending s. 259.035; creating the Land Acquisition and Management Advisory Council; providing responsibility for review of plans for state-owned lands; creating s. 259.036, F.S.; providing for management review teams for certain lands; amending s. 259.101, F.S.; adding historical or archeological sites to Preservation 2000 project criteria; commencing process to close out the Florida Preservation 2000 Program; amending s. 260.015, F.S.; changing certain land acquisition procedures for the Florida Greenways and Trails Program; creating s. 369.255, F.S.; authorizing certain counties and municipalities to create green utilities and adopt fees for certain purposes; amending s. 373.139, F.S.; providing that lands acquired for specified purposes by water management districts shall receive multiple-use management, except under certain conditions; directing the district governing boards to consult with or enter into a memorandum of agreement with specified state agencies with respect to such management; amending s. 373.59, F.S.; providing that a soil and water conservation district shall be considered first as the managing agency with respect to fee-simple acquisitions or acquisitions of less-than-fee interest in certain land through the Water Management Lands Trust Fund; providing for use of land management volunteers; creating s. 373.591, F.S.; creating management review teams for water management district lands; amending s. 704.06, F.S.; clarifying linear facilities ability to cross conservation easements; repealing s. 253.022, F.S., relating to the Land Management Advisory Council; amending s. 373.250, F.S.; revising a date with respect to certain reports by water management districts; providing an effective date.

—was referred to the Committee on Natural Resources.

By the Committee on Education/K-12 and Representative Stafford and others—

CS for HB's 1309, 1143, 847, 697, 1391 and 203—A bill to be entitled An act relating to student discipline and school safety; amending s. 232.09, F.S.; revising provisions relating to student attendance responsibility and policy; creating s. 232.0205, F.S.; requiring certain disclosure at school registration and providing penalties for willful nondisclosure; amending s. 232.01, F.S.; revising compulsory school attendance requirements to require children over age 16 to file a formal declaration of intent to terminate school enrollment in order to be exempt from compulsory school attendance requirements; amending s. 39.01, F.S.; revising provisions regarding habitual truancy; amending s. 228.041, F.S.; revising the definitions of the terms "habitual truant" and "dropout"; amending s. 232.2462, F.S.; conforming provisions; amending s. 414.125, F.S.; providing Learnfare program requirements; amending s. 232.17, F.S.; revising procedures relating to enforcement of school attendance; amending s. 232.19, F.S.; revising penalties and court procedures relating to habitual truancy; requiring each public school principal to notify the district school board of students who accumulate a specified number of unexcused absences; authorizing the governing body of a private school to provide such information to the Department of Education; providing for court-ordered parent training classes and providing penalties for termination of an employee required to attend such classes, under certain circumstances; authorizing the court to impose civil penalties on, or require participation in community service or counseling by, the child; amending s. 232.195, F.S., relating to truancy activities upon transfer of student, to conform; creating s. 232.197, F.S.; requiring notification to a school of court action directly involving the school; amending s. 232.2452, F.S.; revising requirements relating to student report cards; amending s. 232.25, F.S., relating to pupils subject to control of school; providing for a school child's daily conduct pledge; amending s. 39.015, F.S., relating to rulemaking regarding habitual truants, to conform to the act; amending s. 230.2316, F.S., relating to dropout prevention; providing that second chance schools may include residential academies;

providing criteria for establishment, operation, and funding of residential academies; providing criteria for participation; requiring parents and legal guardians of students assigned to programs funded by the dropout prevention program to comply with the requirements of the assignment and providing penalties; amending s. 39.085, F.S.; revising provisions relating to the Alternative Education Institute, to convert its mission and procedures and clarify its membership and duties; creating s. 230.235, F.S.; requiring school districts to adopt a policy of zero tolerance for crime, including criminal substance abuse violations; amending s. 232.277, F.S.; requiring reporting and notification of student substance abuse; amending s. 790.115, F.S.; expanding offenses that are punishable as possessing or discharging weapons or firearms on school property and providing a qualifier to an exception from such offense; amending s. 230.23015, F.S.; clarifying provisions relating to students who commit assault or battery on school personnel; repealing s. 322.0601, F.S., relating to driver's licenses for minors; providing effective dates.

—was referred to the Committees on Criminal Justice; Education; and Ways and Means.

By Representative Laurent—

HB 1323—A bill to be entitled An act relating to water protection; amending s. 403.8532, F.S.; authorizing the Department of Environmental Protection to make loans to certain public water systems; authorizing use of certain federal Safe Drinking Water Act funds for specified purposes; providing loan criteria, requirements, and limitations; providing for department rules; requiring an annual report; providing for audits; providing for loan service fees; providing for disposition of funds; providing for default; providing penalties for delinquent payments or noncompliance with loan terms and conditions; amending s. 403.860, F.S.; authorizing administrative penalties for failure of a public water system to comply with the Florida Safe Drinking Water Act; providing for rules and procedures; creating s. 403.8615, F.S.; requiring certain new water systems to demonstrate specified technical, managerial, and financial capabilities; creating s. 403.865, F.S.; providing legislative findings and intent relating to operation of water and wastewater treatment facilities by qualified personnel; creating s. 403.866, F.S.; providing definitions; creating s. 403.867, F.S.; requiring such operators to be licensed by the department; creating s. 403.868, F.S.; authorizing a utility to have more stringent requirements; creating s. 403.869, F.S.; authorizing department rules; creating s. 403.87, F.S.; authorizing appointment of a technical advisory council for water and domestic wastewater operator certification; creating s. 403.871, F.S.; providing for application and examination, reexamination, licensure, renewal, and recordmaking and record-keeping fees; providing for disposition thereof; creating s. 403.872, F.S.; specifying requirements for licensure; creating s. 403.873, F.S.; providing for biennial license renewal; creating s. 403.874, F.S.; providing for inactive status and reactivation of inactive licenses; creating s. 403.875, F.S.; specifying prohibited acts; providing a penalty; creating s. 403.876, F.S.; requiring the department to establish grounds for disciplinary actions; providing for an administrative fine; providing for transfer of powers and duties relating to regulation of operators of water treatment plants and domestic wastewater treatment plants from the Department of Business and Professional Regulation to the Department of Environmental Protection; providing for continuation of certain rules; providing a grandfather provision for operators certified prior to the transfer; amending s. 403.087, F.S.; increasing the maximum term for issuance of permits for stationary water pollution sources; specifying conditions for renewing operation permits for domestic wastewater treatment facilities for an extended term at the same fee; requiring the department to keep certain records; amending s. 403.0871, F.S.; correcting cross references; amending s. 403.0872; clarifying air pollution fee deadline; repealing ss. 468.540, 468.541, 468.542, 468.543, 468.544, 468.545, 468.546, 468.547, 468.548, 468.549, 468.550, 468.551, and 468.552, F.S., relating to water and wastewater treatment plant operator certification by the Department of Business and Professional Regulation; providing an appropriation; amending s. 367.021, F.S.; defining "environmental compliance costs"; amending s. 367.022, F.S.; providing regulatory exemptions for nonpotable irrigation water, under certain circumstances; amending s. 367.081, F.S.; providing for recovery of environmental compliance costs; amending s. 367.171, F.S.; providing application of the act; amending s. 367.022; deregulating bulk supplies of water for sale for resale; providing for a study of ozonation and other alternative processes for disinfecting water; requiring a report; amending s. 193.625, F.S. to

allow high-water recharge assessments when lands will be used primarily for bona fide high-water recharge purposes for a period of at least 5 years; amending s. 403.1835, F.S.; expanding the sewage treatment facilities revolving loan program to provide loans to local governmental agencies for construction of stormwater management systems; defining "stormwater management system"; providing additional responsibilities of local governments under the program; providing priority for certain stormwater management system projects; providing for funding; providing an effective date.

—was referred to the Committees on Natural Resources; and Ways and Means.

By the Committee on Health Care Standards and Regulatory Reform; and Representative Saunders—

CS for HB 1437—A bill to be entitled An act relating to public records and meetings; amending s. 408.7056, F.S.; providing an exemption from public records requirements for certain personal information in documents, reports, or records prepared or reviewed by a provider and subscriber assistance panel or obtained by the Agency for Health Care Administration; providing an exemption for portions of meetings of such panels when such information, or trade secret or internal risk management program information, is discussed; requiring recording of closed meetings; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was referred to the Committees on Banking and Insurance; and Health Care.

By Representative Warner—

HB 1487—A bill to be entitled An act relating to education; transferring certain functions from the State Board of Education to the Commissioner of Education; amending s. 11.42, F.S., relating to the Auditor General; conforming a cross-reference; amending s. 20.15, F.S.; revising duties of the State Board of Education; providing for the Commissioner of Education rather than the State Board of Education to head the Department of Education; providing for the appointment of a Deputy Commissioner for Educational Programs; providing for the appointment of a Deputy Commissioner for Planning, Budgeting, and Management; providing for the Commissioner of Education rather than the State Board of Education to appoint the councils and committees within the Department of Education; amending s. 228.03, F.S., relating to the scope of the state school system; amending s. 228.041, F.S.; granting the Commissioner of Education rulemaking authority for certain programs; amending s. 228.062, F.S.; requiring the commissioner to adopt rules to implement the migrant education program; amending s. 228.081, F.S.; requiring the State Board of Education and the department to provide certain assistance for educational programs of the Department of Juvenile Justice; amending s. 228.086, F.S., relating to regional centers of excellence in mathematics, science, computers, technology, and global awareness; deleting certain requirements; amending s. 228.088, F.S.; requiring the commissioner to adopt rules relating to utilization of security programs; amending s. 228.092, F.S., relating to retention of records of nonpublic school students; amending s. 228.195, F.S.; requiring the commissioner to prescribe rules for school food service programs; amending s. 228.301, F.S.; providing for security of tests administered by commissioner; amending s. 228.502, F.S.; requiring the commissioner to adopt rules for administration of Education Success Incentive program; amending s. 229.011, F.S.; revising certain functions of the state with respect to public education; amending s. 229.053, F.S.; revising the powers and duties of the State Board of Education; requiring the State Board of Education to establish a clearinghouse for information on economic development; amending s. 229.085, F.S., relating to the custody of educational funds; amending s. 229.111, F.S.; providing for the Commissioner of Education to assume the duties of the State Board of Education with respect to the acceptance of gifts; amending s. 229.512, F.S.; revising the duties of the Commissioner of Education; creating s. 229.515, F.S.; authorizing the commissioner to adopt rules having the effect of law; amending s. 229.559, F.S., relating to the use of student's social security numbers; deleting obsolete provisions; amending s. 229.565, F.S.; deleting a requirement that the State Board of Education approve standards of excellence; deleting requirements for an evaluation of the Florida

Primary Education Program; amending s. 229.57, F.S.; revising requirements of the student assessment program; amending s. 229.59, F.S.; requiring the commissioner to adopt rules relating to submission of educational improvement projects; amending s. 229.591, F.S.; deleting the name "Blueprint 2000"; amending s. 229.592, F.S., relating to school improvement and education accountability; deleting obsolete provisions; revising provisions relating to exceptions to law; amending s. 229.593, F.S., relating to the Florida Commission on Education Reform and Accountability; amending s. 229.594, F.S.; deleting obsolete provisions; providing the commissioner's role in reviewing components of school improvement and accountability; amending s. 229.602, F.S.; replacing the term "career education" with the term "vocational education"; amending ss. 229.75, 229.76, F.S.; revising duties of the State Board of Education to conform to changes made by the act; amending s. 229.771, F.S.; providing for removal from office by the State Board of Education; amending s. 229.805, F.S.; requiring provision of educational television in accordance with rules adopted by the commissioner; amending s. 229.8051, F.S.; requiring the commissioner to adopt rules for administration of the state public broadcasting system; amending s. 230.03, F.S.; providing commissioner's rulemaking authority regarding the district school system; amending s. 230.22, F.S.; providing commissioner's rulemaking authority regarding the operation of school districts; amending s. 230.23, F.S.; requiring the commissioner to prescribe rules for various programs of school districts; amending s. 230.2305, F.S., relating to the prekindergarten early intervention program; deleting a cross reference; amending s. 230.2316, F.S.; providing for rules of the commissioner relating to second chance schools and add-on certification programs; amending s. 230.23166, F.S.; requiring the commissioner to adopt rules to implement teenage parent program; amending s. 230.2318, F.S.; requiring the commissioner to adopt rules to implement the school resource officer program; amending s. 230.32, F.S.; providing commissioner's authority to adopt rules and to set minimum standards for school operational programs; amending s. 230.321, F.S.; providing commissioner's authority to prescribe duties of superintendents; amending s. 230.33, F.S.; providing commissioner's authority over superintendents; amending s. 230.64, F.S.; requiring the commissioner to prescribe minimum standards for area technical centers; amending s. 230.71, F.S.; requiring the commissioner to adopt rules implementing intergenerational school volunteer programs; amending s. 232.01, F.S.; requiring rules of the commissioner relating to school attendance; amending s. 232.23, F.S.; providing that procedures for maintenance and transfer of pupil records shall be as prescribed by rules of the commissioner; amending s. 232.2468, F.S.; authorizing the commissioner to adopt rules relating to graduation, habitual truancy, and dropout rates; amending s. 232.247, F.S.; requiring rules of the commissioner relating to special high school graduation requirements for exceptional students; amending s. 232.25, F.S.; requiring rules of the commissioner relating to pupils subject to the control of the school; amending s. 232.303, F.S.; authorizing the commissioner to adopt rules relating to interagency student services; amending s. 232.435, F.S.; requiring the commissioner to approve courses relating to athletic trainers; amending s. 233.011, F.S.; authorizing the commissioner to develop rules to implement accountability provisions; amending s. 233.015, F.S.; requiring the commissioner to adopt rules for conducting purges of courses; amending s. 233.056, F.S.; requiring rules of the commissioner relating to operation of instructional programs for visually impaired students and deaf or hard-of-hearing students; amending s. 233.058, F.S.; requiring the commissioner to adopt rules for English language instruction for limited English proficient students; amending s. 233.061, F.S.; providing the commissioner and the state board authority to adopt rules prescribing required instruction; amending s. 233.067, F.S.; providing that administration of the comprehensive health education and substance abuse prevention program be pursuant to rules adopted by the commissioner; amending s. 233.115, F.S.; providing for adoption of instructional materials by the commissioner; amending s. 233.17, F.S.; authorizing the commissioner to approve by rule certain terms of adoption; amending s. 233.37, F.S.; providing for rules of the commissioner regarding the disposal of instructional materials; amending s. 233.39, F.S.; requiring the commissioner to prescribe rules for the renovation and repair of textbooks; amending s. 234.01, F.S.; providing for transportation of students pursuant to rules adopted by the commissioner; amending s. 234.02, F.S.; providing for rules of the commissioner for the safety and health of pupils being transported by the school district; amending s. 234.03, F.S.; providing for rules of the commissioner relating to tort liability; amending s. 234.051, F.S.; requiring the commissioner to prescribe safety specifications for school buses; amending s. 234.091, F.S.; requiring the commissioner to prescribe general qualifications for school bus drivers; amending s. 234.101, F.S.; requiring the commissioner to adopt

requirements for school bus drivers; amending s. 234.301, F.S.; authorizing the commissioner to adopt rules for school bus pool purchases; amending s. 235.01, F.S.; requiring the commissioner to adopt rules for implementation of the Educational Facilities Act; amending s. 235.04, F.S.; requiring the commissioner to adopt rules for the disposal of real property; amending s. 235.056, F.S.; providing for commissioner's requirements for educational facilities; amending s. 235.06, F.S.; directing the commissioner to adopt and administer rules prescribing safety and health standards for occupants of educational facilities; amending s. 235.19, F.S.; directing the commissioner to adopt rules for site planning and selection; amending s. 235.211, F.S.; providing for the commissioner to set standards for educational facilities; amending s. 235.26, F.S.; requiring the commissioner to adopt the uniform building code for public educational facilities construction and granting the commissioner final review of questions, disputes, or interpretations of the uniform code; amending s. 235.31, F.S.; providing for rules of the commissioner relating to prequalification of bidders; amending s. 235.32, F.S.; providing for rules of the commissioner relating to building specifications; amending s. 236.02, F.S.; providing for rules of the commissioner relating to reports, minimum term of operation of schools, employment of personnel, salary schedules, and budgets; amending s. 236.0801, F.S.; providing for commissioner approval of education goal; amending s. 236.081, F.S.; requiring rules of the commissioner relating to funding of public schools; amending s. 236.0811, F.S.; requiring rules of the commissioner relating to a school board's master plan for inservice educational training; amending s. 236.083, F.S.; requiring rules of the commissioner for determination of annual allocation for student transportation; amending s. 236.0841, F.S.; providing for rules of the commissioner regarding employment of certain personnel; amending s. 236.1225, F.S.; providing for rules of the commissioner for governing the gifted education grants program; amending s. 236.13, F.S.; providing for rules of the commissioner governing the expenditure of funds by school boards; amending s. 236.685, F.S.; providing for rules of the commissioner relating to teacher-to-student ratio or class size; amending s. 237.211, F.S.; requiring the commissioner to adopt rules prescribing minimum security standards for the direct deposit of funds; amending s. 237.40, F.S.; providing for rules of the commissioner relating to annual audit of direct-support organizations; amending s. 316.615, F.S.; providing for rules of the commissioner relating to physical examination requirements for school bus operators; providing that certain rules of the state board in effect June 30, 1997, shall remain in effect until amended or revoked; amending s. 228.121, F.S.; correcting a cross-reference; repealing s. 228.0617, F.S., relating to the school age childcare incentives program; repealing s. 228.085, F.S., relating to the state comprehensive plan for mathematics, science, and computer education; providing an effective date.

—was referred to the Committees on Education; Governmental Reform and Oversight; and Ways and Means.

By Representative Westbrook—

HB 1519—A bill to be entitled An act relating to rural hospitals; amending ss. 395.602 and 408.07, F.S.; revising the definition of "rural hospital" to increase the allowable number of licensed beds; amending s. 409.9116, F.S.; providing that rural hospitals designated after July 1, 1997, shall not be included in the rural hospital disproportionate share of financial assistance programs unless additional appropriations are provided; providing an effective date.

—was referred to the Committees on Health Care; and Ways and Means.

By the Committee on General Government Appropriations and Representative Westbrook and others—

CS for HB 1589—A bill to be entitled An act relating to counties; repealing s. 327, ch. 96-410, Laws of Florida, which provides that once a small county meets the population requirements and qualifies for programs under ss. 40.015, 163.05, 163.3177, 163.3187, 163.3191, 165.061, 212.055, 218.075, 218.65, 252.373, 265.2861, 403.706, and 403.7095, F.S., it shall retain that qualification until it exceeds a population of 75,000; amending s. 34.191, F.S.; authorizing boards of county commissioners to assign collection of past due fines and costs to a private

attorney or collection agency and authorizing fees for such purposes; amending ss. 163.05, 163.3177, 163.3187, 163.3191, 165.061, 212.055, 218.075, 252.373, 288.063, 373.441, 403.4131, 403.706, 403.719, F.S., to increase the maximum population limit to qualify as a small county in provisions that establish a technical assistance program for small counties, that provide that certain elements of a local government comprehensive plan are optional for small counties, that provide for small-scale amendment thresholds to allow Duval County 120 acres, that authorize the state land planning agency to enter into agreements with small counties to focus on selected issues or elements when updating their comprehensive plans, that provide population requirements for incorporation of municipalities in small counties, that authorize certain small counties to use proceeds of the local government infrastructure surtax for long-term maintenance costs associated with landfill closure, that authorize the Department of Environmental Protection and Water Management districts to waive or reduce permit processing fees for small counties under certain conditions, that provide criteria that small counties must meet to qualify for funds from the Emergency Management, Preparedness, and Assistance Trust Fund, that provide that certain small counties are qualified for contracts with the Office of Tourism, Trade, and Economic Development for transportation projects, that require consideration of special provisions when an environmental resource permit program is delegated to small counties, that encourage a regional approach to litter control and prevention programs in small counties, that authorize small counties to provide their residents with the opportunity to recycle in lieu of achieving solid waste reduction goals, and that provide for the use of waste tire grants by small counties; amending s. 212.054, F.S.; exempting from newly enacted discretionary sales surtaxes transactions that are subject to specified tourist development taxes in an aggregate rate that exceeds a specified maximum; amending s. 212.055, F.S.; authorizing charter counties to levy a county transit system surtax; amending s. 403.7061, F.S., to conform; amending s. 218.65, F.S., relating to emergency and supplemental distributions from the Local Government Half-cent Sales Tax Clearing Trust Fund; revising the population limitation for purposes of provisions which exempt small counties from certain criteria imposed to qualify for an emergency distribution; deleting a requirement that a county must be eligible for an emergency distribution in order to qualify for a supplemental distribution; amending ss. 259.032, 373.59, F.S.; amending a requirement that small counties levy a specified millage or suffer a specified percentage of tax loss in order to receive payments in lieu of taxes from funds in the Conservation and Recreation Lands Trust Fund or Water Management Lands Trust Fund for tax losses incurred as a result of acquisitions under the Florida Preservation 2000 Program; revising the period during which payments in lieu of taxes are to be made; amending s. 403.7095, F.S.; revising the population limitation for purposes of provisions which authorize annual solid waste and recycling grants to small counties and deleting the expiration date for such grants; amending s. 212.055, F.S.; providing the expiration date for small county indigent care surtax; amending s. 288.065, F.S.; providing that funds appropriated for the Rural Community Development Revolving Loan Fund are not subject to reversion; amending s. 288.106, F.S.; defining the terms "rural county" and "rural city"; providing for the determination of the "average wage in the area" for purposes of the tax refund program for qualified target industry businesses to be based on private sector wages only; authorizing the Office of Tourism, Trade, and Economic Development to waive the annual wage requirement imposed as a condition of qualifying for review for participation in the program under certain circumstances; authorizing the transfer and use of legally restricted fuel taxes by counties having a population of 30,000 or less for unrestricted purposes for all fiscal years prior to and through fiscal year 1997-1998; providing an effective date.

—was referred to the Committees on Community Affairs; and Ways and Means.

By Representative Culp and others—

HB 1853—A bill to be entitled An act relating to Medicaid; amending ss. 236.0812, 409.9071, 409.908, 409.9122, and 409.9126, F.S.; revising and conforming provisions relating to school-based services provided to children under the Medicaid certified school match program; expanding included services; providing limitations; deleting obsolete language; clarifying recipient eligibility requirements and providing for cooperation with the Department of Education; directing the Agency for Health Care Administration to submit a state plan amendment, and to seek

federal waivers when necessary; authorizing the agency to conduct school district compliance reviews; revising budget and reimbursement provisions; directing the agency to develop a reimbursement schedule; authorizing certain retroactive reimbursements; providing an exemption from background screening requirements; providing for managed care plan agreements with school districts and county health departments; providing for procedures to ensure continuity of care; providing an effective date.

—was referred to the Committees on Education; Health Care; and Ways and Means.

By Representative Arnall—

HB 1957—A bill to be entitled An act relating to public records; creating s. 414.1035, F.S.; providing an exemption from public records requirements for identifying information relating to the drug screening, testing, or treatment of applicants for or recipients of WAGES Program assistance or services; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was referred to the Committees on Commerce and Economic Opportunities; and Children, Families and Seniors.

By the Committee on Health Care Services and Representative Albright and others—

HB 1965—A bill to be entitled An act relating to health care; creating s. 154.501, F.S.; creating the “Primary Care for Children and Families Challenge Grant Act”; creating s. 154.502, F.S.; providing legislative findings and intent; creating s. 154.503, F.S.; providing for the creation and administration of the Primary Care for Children and Families Challenge Grant Program; creating s. 154.504, F.S.; providing for eligibility and benefits; creating s. 154.505, F.S.; providing an application process and requirements; authorizing contracts for health care services; creating s. 154.506, F.S.; providing for primary care for children and families challenge grant awards; providing for local matching funds; requiring a study and a report; directing the Agency for Health Care Administration to seek federal waivers; repealing s. 766.1115(12), F.S., relating to expiration of the Access to Health Care Act; providing an effective date.

—was referred to the Committees on Health Care; Community Affairs; and Ways and Means.

By the Committee on Education Innovation and Representative Melvin and others—

HB 2121—A bill to be entitled An act relating to educational facilities and funding; providing for a review over a 4-year period of the Florida Statutes that govern agency operations; requiring the Commissioner of Education to review rules relating to school facilities and recommend revision or repeal; authorizing the commissioner to recommend revision or repeal of statutes; establishing the School Infrastructure Thrift Program within the Department of Education; requiring the Department of Education to seek elimination or revision of certain laws, rules, and regulations; providing program purposes; providing for annual funding; providing that appropriations shall not revert; providing intent for continued program funding; authorizing school district participation in the program and providing requirements; requiring review of data and proposals and recommendation for awards; providing for awards and restricting the use thereof; providing penalties for noncompliance; creating s. 235.216, F.S.; providing for maximum square foot cost of educational facilities; providing frugal construction incentives; amending s. 236.25, F.S., relating to district school tax; limiting the use of nonvoted discretionary capital outlay millage proceeds; providing a penalty for violations of the expenditure restrictions; authorizing a waiver of the expenditure restrictions; amending s. 235.435, F.S., relating to funds for comprehensive educational plant needs; revising requirements and providing additional criteria for funding from the Special Facility Construction Account; amending s. 235.014, F.S.; revising functions of the Department of Education; amending s. 235.15, F.S.; requiring uniformity in surveys of educational facilities; providing additional survey requirements; requiring validation of use of standardized measures by the De-

partment of Education; amending s. 236.083, F.S.; providing for a guaranteed allocation from student transportation funding for new schools meeting certain requirements; providing for calculation; authorizing transfer of such amount to the district capital improvement account for construction, financing, or lease-purchase of new schools; requiring the Department of Education to recommend certain incentives; authorizing the adoption of rules; providing an effective date.

—was referred to the Committees on Education; and Ways and Means.

By Representative Laurent—

HB 1271—A bill to be entitled An act relating to trust funds; creating s. 403.8533, F.S.; creating the Drinking Water Revolving Loan Trust Fund within the Department of Environmental Protection; specifying the purposes of the trust fund; providing source of moneys; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was referred to the Committees on Natural Resources; and Ways and Means.

By the Committee on Criminal Justice Appropriations and Representative Villalobos and others—

CS for HB 1319—A bill to be entitled An act relating to court funding; creating s. 25.402, F.S.; providing for compensation to counties for certain costs through a trust fund administered by the Supreme Court; requiring adoption by the Supreme Court of an allocation and disbursement plan; providing for appointment of a committee to develop the plan; providing guidelines for deposit in the trust fund of moneys generated from certain civil penalties; providing that the funds paid to counties shall be grants-in-aid for specified purposes; providing for future repeal; amending s. 318.21, F.S., relating to the disposition of civil penalties by county courts; providing for distribution of civil penalties to the County Article V Trust Fund beginning July 1, 1998; providing for future repeal of specified provisions; providing for future disposition of the funds to the General Revenue Fund upon repeal of specified provisions; providing a directive to the Statutory Revision Division; 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 provide and maintain court facilities; requiring clerks of court to submit specified financial reports; amending s. 27.34, F.S.; revising a provision relating to the services and office space provided by the counties to the state attorneys; providing effective dates.

—was referred to the Committees on Judiciary; and Ways and Means.

RETURNING MESSAGES ON SENATE BILLS

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has refused to recede from House Amendment(s) to CS for CS for SB's 1688, 792, 1334 and 2254 and has acceded to the request of the Senate for the appointment of a conference committee.

The Speaker has appointed the following Representatives as conferees on the part of the House: Representatives King, Wise, Wasserman-Schultz and K. Pruitt.

John B. Phelps, Clerk

CS for CS for SB's 1688, 792, 1334 and 2254—A bill to be entitled An act relating to workforce development education; requiring the Post-secondary Education Planning Commission to oversee implementation activities; requiring components of the implementation process; providing for a reporting system, program and curriculum design, cost study, staff development, and administrative procedures; providing for staff support; amending ss. 20.15, 215.16, F.S.; changing the names and responsibilities of the Division of Public Schools and the Division of Applied Technology and Adult Education within the Department of Education; amending s. 228.041, F.S.; amending the definition of “career education”; amending ss. 231.614, 233.056, 233.0561, 235.15, 235.199,

235.435, F.S.; conforming provisions; amending s. 236.081, F.S.; deleting responsibilities for funding of vocational education and adult education from the Florida Education Finance Program; conforming provisions; requiring a school district to pay certain costs for high school students enrolled in community college adult education programs; amending s. 237.34, F.S.; changing certain reporting responsibilities; conforming provisions; amending s. 239.105, F.S.; amending definitions to conform; removing certain programs from the category of adult general education; conforming provisions; amending s. 239.113, F.S.; conforming provisions; creating s. 239.115, F.S.; creating the workforce development fund; providing definitions; authorizing funding for a program for disabled adults; requiring cost categories, output measures, and outcome measures; providing for certain student fees; providing state funding entitlements for workforce development program categories; delaying the implementation date for the workforce development performance based funding formula; amending s. 239.117, F.S.; conforming provisions; amending certain requirements regarding fee schedules for workforce development education; authorizing a higher fee for certain courses within a program; amending s. 239.201, F.S.; deleting a requirement for delivery of certain programs; conforming provisions; amending s. 239.229, F.S.; deleting a requirement regarding supplemental vocational programs; conforming provisions; amending s. 239.249, F.S.; conforming provisions; amending s. 239.301, F.S.; deleting restrictions on the authority to provide certain programs; changing the funding category for college preparatory instruction; conforming provisions; amending ss. 240.118, 240.147, F.S.; conforming provisions; amending s. 240.301, F.S.; amending the mission of community colleges; deleting restrictions; conforming provisions; amending s. 240.345, F.S.; revising certain requirements for fund sources; amending s. 240.35, F.S.; revising requirements for student fees at community colleges to conform; amending s. 240.359, F.S.; conforming provisions relating to fund sources; amending ss. 240.61, 242.3305, 242.331, 242.337; 288.047, 446.011, 446.041, 446.052, 616.21, F.S.; conforming provisions; repealing s. 229.8075(3), F.S., relating to a reporting requirement of the Florida Education and Training Placement Information Program; repealing s. 239.109, F.S., relating to interinstitutional articulation agreements; repealing sections 15 and 16 of ch. 94-232, Laws of Florida, relating to a direction to the Division of Statutory Revision to change certain terms

relating to vocational education; providing an effective date.

RETURNING MESSAGES—FINAL ACTION

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 244, CS for CS for SB 496, SB 884, SB 1158, CS SB 1246, CS for SB 1546, CS for SB 1992 and CS for CS for SB 2060.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

ENROLLING REPORTS

SB 152, SB 180, CS for SB 232, SB 326, CS for SB 378, CS for SB 442, SB 486, CS for SB's 530 and 848, CS for SB 550, CS for SB 630, CS for SB's 780, 520 and 692, SB 902, CS for SB 968, SB 1108, CS for SB 1112, CS for SB 1160, CS for SB 1282, SB 1430 and CS for SB 1862 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on April 30, 1997.

Faye W. Blanton, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 29 was corrected and approved.

CO-SPONSORS

Senators Bankhead—CS for SB 1598; Diaz-Balart—SB 1008; Crist—SB 190; Jenne—SB 162; Jennings—SB 1028

RECESS

On motion by Senator Bankhead, the Senate recessed at 8:33 p.m. to reconvene at 9:00 a.m., Thursday, May 1.