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CALL TO ORDER

The Senate was called to order by President McKay at 9:00 a.m. A quorum present—39:

Mr. President	Garcia	Posey
Brown-Waite	Geller	Pruitt
Burt	Holzendorf	Rossin
Campbell	Jones	Sanderson
Carlton	King	Saunders
Clary	Klein	Sebesta
Constantine	Latvala	Silver
Cowin	Laurent	Smith
Crist	Lee	Sullivan
Dawson	Meek	Villalobos
Diaz de la Portilla	Miller	Wasserman Schultz
Dyer	Mitchell	Webster
Futch	Peaden	Wise

Excused: Senator Lawson until 10:22 a.m.

PRAYER

The following prayer was offered by Rev. Bill Rhodes, Killearn United Methodist Church, Tallahassee:

Good morning, Lord. We are thankful for the democratic process that brings these men and women to Tallahassee to tackle the affairs of state, to give and take on issues, and in the end come to a consensus that is the best for the people of Florida.

We thank you for the service our leaders provide for this great state and trust that you will continue to guide and direct them as they resolve important issues like the budget, education and other important issues that affect so many of our people and how we do business in Florida.

We are particularly grateful for our Governor and his staff and the leadership they have given. May they together with this body, sense our care and concern for the honor, security and welfare of the people of Florida. May each member of this body be steadfast in their convictions, consistent in their commitments and have courage in their endeavors to make Florida a better place in which to live. For these things, we pray. Amen.

PLEDGE

Senator Sebesta led the Senate in the pledge of allegiance to the flag of the United States of America.

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

Motion

On motion by Senator Lee, by the required constitutional two-thirds vote of the membership the following bill was admitted for introduction outside the purview of the Governor's call:

By Senator Brown-Waite—

SB 74-E—A bill to be entitled An act relating to medical malpractice insurance; creating the Task Force on Medical Malpractice Insurance Premiums to make recommendations to the Legislature; providing an effective date.

—was referred to the Committee on Banking and Insurance.

By Senators Villalobos and Peaden—

SB 76-E—A bill to be entitled An act relating to falsification of records; amending ss. 839.13, 921.0022, F.S.; prescribing penalties for falsifying records of an individual in the care and custody of a state agency; providing for construction of the act in pari materia with laws enacted at the 2001 Regular Session; providing an effective date.

—was referred to the Committee on Criminal Justice.

BILLS ON THIRD READING

SB 18-E—A bill to be entitled An act relating to the corporate income tax; adopting provisions of the Job Creation and Workers Assistance Act of 2002, Pub. L. No. 107-147, as codified in the Internal Revenue Code; amending s. 220.03, F. S.; providing for the adoption of the 2002 version of the Internal Revenue Code; providing for construction of the act in pari materia with other acts enacted at the 2002 Regular Session; providing for retroactive application; providing an effective date.

—was read the third time by title.

SENATOR KING PRESIDING

THE PRESIDENT PRESIDING

On motion by Senator Clary, **SB 18-E** was passed and certified to the House. The vote on passage was:

Yeas—22

Brown-Waite	Diaz de la Portilla	Peaden
Burt	Futch	Posey
Clary	Garcia	Pruitt
Constantine	King	Sanderson
Cowin	Laurent	Saunders
Crist	Lee	Sebesta

Silver	Webster	Wise
Villalobos		
Nays—18		
Mr. President	Holzendorf	Miller
Campbell	Jones	Mitchell
Carlton	Klein	Rossin
Dawson	Latvala	Smith
Dyer	Lawson	Sullivan
Geller	Meek	Wasserman Schultz

COMMUNITY AFFAIRS, DEPARTMENT OF
Program: Emergency Management
Emergency Planning

In Section 05 On Page 196
1523-A Special Categories
Enrichment Center Special Needs Shelter
Project

From Grants And Donations Trust 500,000
Fund

Senator King offered the following amendment which was moved by Senator Clary and adopted:

Amendment 3 (995405)—

In Section: 06 On Page: 260 Specific Appropriation: 2176
Delete Insert

AGENCY FOR WORKFORCE INNOVATION
Program: Workforce Services
Program Support

In Section 06 On Page 260
2176 Salaries And Benefits

Above line item 2176 after the agency title, INSERT:

From the funds in Specific Appropriation 2176 through 2194 and 2225 through 2228, up to \$5 million shall be used to support the Florida transportation equipment training initiative through provision of the following services and resources: recruitment, job search, job preparation, job training, job placement, one-stop career center services and one-stop career center operations. This \$5 million commitment represents the first year of a seven-year commitment of up to \$50 million for this training initiative.

Senator Saunders offered the following amendment which was moved by Senator Clary and adopted:

Amendment 4 (995406)—

In Section: 06 On Page: 311 Specific Appropriation: 2746
Delete Insert

MANAGEMENT SERVICES, DEPARTMENT OF
Program: Facilities Program
Facilities Management

In Section 06 On Page 311
2746 Expenses

From Supervision Trust Fund 12,410,421 12,411,921

Immediately following Specific Appropriation 2746, INSERT:

From the funds in Specific Appropriation 2746, \$1,500 is provided for the purpose of adding to the signage at the Regional Service Center in Fort Myers, Florida. The additional signage shall include the words "Joseph P. D'Alessandro."

Senator Sullivan moved the following amendments which were adopted:

Amendment 5 (995407)—

In Section: 01 On Page: 002 Specific Appropriation: 5A
Delete Insert

EDUCATION, DEPARTMENT OF, AND
COMMISSIONER OF EDUCATION
Public Schools, Division Of
Program: State Grants K/12 Program - Non
FEFP

MOTION

On motion by Senator Lee, the rules were waived and the Secretary was directed to transmit to the House all bills passed at the direction of the President.

SPECIAL ORDER CALENDAR

SB 2-E—A bill to be entitled An act making appropriations; providing moneys for the annual period beginning July 1, 2002, and ending June 30, 2003, to pay salaries, and other expenses, capital outlay - buildings, and other improvements, and for other specified purposes of the various agencies of State government; providing an effective date.

—was read the second time by title.

Senator Laurent offered the following amendment which was moved by Senator Clary and adopted:

Amendment 1 (995403)—

In Section: 05 On Page: 184 Specific Appropriation: 1409
Delete Insert

AGRICULTURE AND CONSUMER SERVICES,
DEPARTMENT OF, AND COMMISSIONER OF
AGRICULTURE
Program: Consumer Protection
Agricultural Environmental Services

In Section 05 On Page 184
1409 Aid To Local Governments
Mosquito Control Program

From General Inspection Trust Fund 2,278,598 2,293,598

At the end of existing proviso language, following Specific Appropriation 1409, INSERT:

From the funds in Specific Appropriation 1409, \$15,000 from the General Inspection Trust Fund is provided to the Buckhead Ridge Mosquito Control District in Glades County for replacement equipment.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF
Program: Waste Management
Waste Control

In Section 05 On Page 223
1811 Special Categories
Transfer To Department Of Agriculture And
Consumer Services - Mosquito Control
Program

From Solid Waste Management Trust Fund 2,278,598 2,293,598

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

Amendment 2 (995404)—

In Section: 05 On Page: 196 Specific Appropriation: 1523-A
Delete Insert

5A In Section 01 On Page 002
Special Categories
Grants And Aids - Grants To Public
Schools For Reading Programs

From Educational Enhancement Trust 1,570,000 0
Fund

5-D Special Categories
Teacher Professional Development

From Educational Enhancement Trust 1,570,000
Fund

After the new Specific Appropriation 5D insert the following proviso:

Funds in Specific Appropriation 5D are provided for the Schultz Center for Teaching and Leadership.

Amendment 6 (995408)—

In Section: 02 On Page: 007 Specific Appropriation: 15
Delete Insert

EDUCATION, DEPARTMENT OF, AND
COMMISSIONER OF EDUCATION
Program: Education - Fixed Capital Outlay

15 In Section 02 On Page 007
Fixed Capital Outlay
Community College Projects

In the proviso following Specific Appropriation 15 on page 8 for Florida Community College at Jacksonville delete:

and \$15,000,000 of the funds appropriated to Florida Community College at Jacksonville are for the planning, construction and equipment of a training facility for Project Bluebelle and are contingent upon Florida being the location designated for this facility.

and insert in lieu thereof:

\$15,000,000 of the funds provided in Specific Appropriation 15 are contingent upon a decision to locate a major vehicle manufacturing and assembly facility in Florida that will create a minimum of 1,500 jobs and produce a capital investment of at least \$400 million. The PECCO funds shall be used for construction and equipment for the Florida Transportation Equipment Training Center. It is the intent of the Legislature to provide funds to operate the Center and Training Facilities in future years.

Amendment 7 (995409)—

In Section: 02 On Page: 007 Specific Appropriation: 15
Delete Insert

EDUCATION, DEPARTMENT OF, AND
COMMISSIONER OF EDUCATION
Program: Education - Fixed Capital Outlay

15 In Section 02 On Page 007
Fixed Capital Outlay
Community College Projects

In the existing proviso for Chipola Junior College, insert after "Labs" on the last line:

; and for adjacent land acquisition.

SENATOR LATVALA PRESIDING

Senator Wise offered the following amendment which was moved by Senator Sullivan and adopted:

Amendment 8 (995410)—

In Section: 02 On Page: 020 Specific Appropriation: 83
Delete Insert

EDUCATION, DEPARTMENT OF, AND
COMMISSIONER OF EDUCATION
Public Schools, Division Of
Program: Executive Direction Support
Services

83 In Section 02 On Page 020
Salaries And Benefits

Insert a new paragraph of proviso after Specific Appropriation 83 as follows:

From the funds provided in Specific Appropriations 83, 84, 85 and 87, \$200,000 from the General Revenue Fund is provided to the Department of Education to form a public-private partnership to continue, expand and modify the learning tools acquisition program (TAP), originally established within the Department of Education. \$100,000 is to be used for administration of the program by the Department of Education and \$100,000 is to be provided to the joint effort to build a larger network and clearinghouse to serve school districts and non-profit corporations that provide services to the school districts.

Senator Dawson offered the following amendment which was moved by Senator Sullivan and adopted:

Amendment 9 (995411)—

In Section: 02 On Page: 024 Specific Appropriation: 105
Delete Insert

EDUCATION, DEPARTMENT OF, AND
COMMISSIONER OF EDUCATION
Public Schools, Division Of
Program: State Grants/K-12 Programs -
FEFP

105 In Section 02 On Page 024
Aid To Local Governments
Grants And Aids - Florida Educational
Finance Program

On page 26 after the last paragraph of proviso for Specific Appropriation 105 insert a new paragraph:

From the funds available to the Palm Beach County School Board, the board shall provide funds for a demonstration project to develop African and African-American curricula that support FCAT standards through enhanced community involvement in student instruction after school hours.

Senator Sullivan moved the following amendments which were adopted:

Amendment 10 (995412)—

In Section: 02 On Page: 024 Specific Appropriation: 105
Delete Insert

EDUCATION, DEPARTMENT OF, AND
COMMISSIONER OF EDUCATION
Public Schools, Division Of
Program: State Grants/K-12 Programs -
FEFP

105 In Section 02 On Page 024
Aid To Local Governments
Grants And Aids - Florida Educational
Finance Program

In the proviso following Specific Appropriation 105, on page 26, in the first paragraph, before the last sentence insert:

For the purpose of a school district's compliance with the approved Safety and Security Best Practices, the local school board may determine that an appropriate use of these funds would be for the implementation of a parental emergency notification system that includes a personalized identification and validation component.

Amendment 11 (995413)—

In Section: 02 On Page: 027 Specific Appropriation: 108
Delete Insert

EDUCATION, DEPARTMENT OF, AND
COMMISSIONER OF EDUCATION
Public Schools, Division Of
Program: State Grants/K-12 Programs -
FEFP

108 In Section 02 On Page 027
Aid To Local Governments
Grants And Aids - Teacher Training

After the existing proviso for Specific Appropriation 108, insert a new paragraph of proviso as follows:

From the funds in Specific Appropriation 108, \$400,000 is provided as match for federal funds to Beacon Learning in Bay County to conduct teacher training.

Amendment 12 (995414)—

In Section: 02 On Page: 038 Specific Appropriation: 161
Delete Insert

EDUCATION, DEPARTMENT OF, AND
COMMISSIONER OF EDUCATION
Community Colleges, Division Of
Program: Community College Programs

161 In Section 02 On Page 038
Aid To Local Governments
Grants And Aids - Community Colleges
Program Fund

From General Revenue Fund 493,005,080 493,205,080

In the proviso after Specific Appropriation 161 on page 39 for North Florida delete:

2,648,609

and insert:

2,848,609

Universities, Division Of
Program: Educational And General
Activities

166A In Section 02 On Page 042
Aid To Local Governments
Grants And Aids - Education And General
Activities

From General Revenue Fund 1,412,697,310 1,412,497,310

In the proviso after Specific Appropriation 166A for Florida Agricultural & Mechanical University on page 42 strike:

81,042,019

and insert in lieu thereof:

80,842,019

Amendment 13 (995415)—

In Section: 02 On Page: 047 Specific Appropriation: 166F
Delete Insert

EDUCATION, DEPARTMENT OF, AND
COMMISSIONER OF EDUCATION
Universities, Division Of
Program: Educational And General
Activities

166F In Section 02 On Page 047
Aid To Local Governments
Grants And Aids - College And University
Centers

In the existing proviso for Specific Appropriation 166F, on the second line after \$1,000,000:

delete all of the rest of that paragraph.

and insert in lieu thereof:

Upon approval by the Secretary of Education of a proposal from Miami-Dade Community College to offer Baccalaureate Degrees in Education and to establish a School of Education, \$1,000,000 shall be allocated by the Secretary of Education to Miami-Dade Community College to establish the School and to obtain accreditation in education by the Southern Association of Colleges and Schools. The balance of the funds is available to be awarded by the Secretary of Education to Community Colleges which receive approval from the Florida Board of Education to award baccalaureate degrees.

Senator Futch offered the following amendment which was moved by Senator Sullivan and adopted:

Amendment 14 (995416)—

In Section: 02 On Page: 047 Specific Appropriation: 166J
Delete Insert

EDUCATION, DEPARTMENT OF, AND
COMMISSIONER OF EDUCATION
Universities, Division Of
Program: Educational And General
Activities

166J In Section 02 On Page 047
Lump Sum
High Technology Research Matching Program

DELETE the proviso immediately following Specific Appropriation 166J

and insert in lieu thereof:

Funds in Specific Appropriation 166J are provided to establish a high technology research matching program for the following targeted areas: 1) nanoscience (including MEMS), 2) space technology and science, 3) simulation and training (including human machine cognition), 4) biotechnology, 5) infotechnology, and 6) optics/lasers. Each university, including institutes or consortiums, may submit funding proposals to the Chancellor of the Division of Colleges and Universities for research projects included within any of the targeted areas. Proposals may be considered for funding by the Chancellor of the Division of Colleges and Universities when matched on a one-to-one basis with private, Federal or other non-state sources, excluding student fees. Proposals may be considered for funding that provide a qualifying match for a group of university proposals within the targeted areas that are selected through a competitive peer review process. Each university, institute or consortium, shall demonstrate that the

non-state matching funds are newly-generated by the institution as a result of this appropriation. Each proposal shall include accountability measures that reflect the proposed outcomes/outputs expected as a result of the proposed research project. The Chancellor shall consult with the Leadership Board for Applied Research and Public Service, created pursuant to s. 240.706, Florida Statutes, and the Florida Space Research Institute, created pursuant to s. 331.368, Florida Statutes, prior to allocation of funds for this purpose.

Senator Sullivan moved the following amendments which were adopted:

Amendment 15 (995417)—

In Section: 14 On Page: 370 Specific Appropriation: Delete Insert

In Section 14 On Page 370

Insert the following three new sections after the existing Section 13 and renumber subsequent sections.

Section ?? The unexpended balance of funds provided to St. Petersburg College in Specific Appropriation 17 of Chapter 2001-253, Laws of Florida, relating to Clsrms, Labs, Offices Ph II - TS complete (ce) for \$4,163,979 is hereby reverted and is appropriated and authorized to assist in the purchase of property and facilities adjacent to the Tarpon Springs Campus.

Section ?? The unexpended balance of funds provided to Seminole Community College in Specific Appropriation 17 of Chapter 2001-253, Laws of Florida, relating to WF/Clsrms, tech Labs, Bldg w/land - I-4 SP Ctr. Partial (spc) for \$3,100,000 is hereby reverted and is appropriated and authorized to assist in the purchase of property and facilities for the Southwest Center near Altamont Springs.

Section ?? The unexpended balance of funds provided to Chipola Junior College in Specific Appropriation 7 of Chapter 2001-367, Laws of Florida, relating to Rem/rem Bldgs 400,402,404,405, Tech Labs for \$817,634; Gen ren/rem, utilities, roofs, signage, site imprv, Health Ctr for \$916,489 and Major Ren/Rem Bldg 20 - complete \$800,000 are hereby reverted and appropriated and authorized for those projects and for land acquisition. The Chipola Junior College Board of Trustees shall determine the level of expenditure of funds among these approved uses at the Marianna Campus.

Amendment 16 (995418)—

In Section: 15 On Page: 000 Specific Appropriation: Delete Insert

In Section 15 On Page 000

In Section 15 On Page 370

In the back of the bill after Section 14 insert a new section 15 as follows and renumber subsequent sections.

Section ?? The unexpended balance of funds appropriated in Specific Appropriation 199A of Chapter 2001-253, Laws of Florida, for College and University Centers for \$6,000,000 is hereby reverted and is appropriated for the following purposes: funds may be awarded by the Secretary of Education as grants to community colleges to develop proposals to award SACS accredited baccalaureate degree programs; funds may also be awarded by the Secretary of Education to community colleges which receive approval from the State Board of Education to award baccalaureate degrees.

Amendment 17 (995419)—

In Section: 02 On Page: 014 Specific Appropriation: 33 Delete Insert

EDUCATION, DEPARTMENT OF, AND COMMISSIONER OF EDUCATION Vocational Rehabilitation

In Section 02 On Page 014 33 Special Categories Risk Management Insurance

Delete the proviso following Specific Appropriation 33

32 Special Categories Purchased Client Services

Insert the following proviso after Specific Appropriation 32:

From the funds in Specific Appropriation 33, \$300,000 in General Revenue from the base allocation is provided for the Centers for Independent Living and shall be used as match for the Basic Support Program. Funding from Social Security Reimbursements (program income) in an amount of up to \$1,408,450 shall be allocated to the Centers for Independent Living.

Funds in Specific Appropriation 33 allocated to client services categories shall be released quarterly. Any alternative release schedule shall be subject to the notice, review and approval procedures provided in s. 216.177, F.S.

Senator Lee offered the following amendment which was moved by Senator Silver and adopted:

Amendment 18 (995420)—

In Section: 03 On Page: 080 Specific Appropriation: 383 Delete Insert

CHILDREN AND FAMILIES, DEPARTMENT OF Services Program: Mental Health Program Children's Mental Health Services

In Section 03 On Page 080 383 Special Categories Grants And Aids - Children's Mental Health Services

At the end of existing proviso language, following Specific Appropriation 383, DELETE:

From the funds in Specific Appropriation 383, \$200,000 in non-recurring General Revenue is provided to the School District of Hillsborough County for mental health care for children with severe emotional disabilities.

At the end of existing proviso language, following Specific Appropriation 383, INSERT:

From the funds in Specific Appropriation 383, \$400,000 in non-recurring General Revenue is provided to the School District of Hillsborough County for mental health care for children with severe emotional disabilities.

Amendments 19 and 20 were withdrawn.

Senator Jones moved the following amendment which was adopted:

Amendment 21 (995423)—

In Section: 02 On Page: 033 Specific Appropriation: 130 Delete Insert

EDUCATION, DEPARTMENT OF, AND COMMISSIONER OF EDUCATION Public Schools, Division Of Program: State Grants K/12 Program - Non FEFP

In Section 02 On Page 033 130 Special Categories Grants And Aids - School And Instructional Enhancements

In the first line of proviso for Specific Appropriation 130 delete:

\$3,000,000

and insert in lieu thereof:

2,900,000

And insert in the last line of proviso after "Management":

\$10,000 is provided for the Saturday Hooked on Arts and Technology Program.

Senator Diaz de la Portilla offered the following amendment which was moved by Senator Silver and adopted:

Amendment 22 (995424)—

In Section: 03 On Page: 082 Specific Appropriation: 409
Delete Insert

CHILDREN AND FAMILIES, DEPARTMENT OF
Services
Program: Substance Abuse Program
Child Substance Abuse Prevention,
Evaluation And Treatment Services

In Section 03 On Page 082
409 Special Categories
Grants And Aids - Children And Adolescent
Substance Abuse Services

From General Revenue Fund 23,248,730 23,498,730

At the end of the project list, following Specific Appropriation 409,
INSERT:

The Compass Program - Dade County (S1596).....250,000

THE PRESIDENT PRESIDING

On motion by Senator Carlton, by two-thirds vote **SB 2-E** as amended was read the third time by title.

Pending further consideration of **SB 2-E** as amended, on motion by Senator Carlton, by two-thirds vote **HB 27-E** was withdrawn from the Committee on Appropriations.

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

HB 27-E—A bill to be entitled An act making appropriations; providing moneys for the annual period beginning July 1, 2002, and ending June 30, 2003, to pay salaries, and other expenses, capital outlay - buildings, and other improvements, and for other specified purposes of the various agencies of State government; providing an effective date.

—a companion measure, was substituted for **SB 2-E** as amended and by two-thirds vote read the second time by title.

On motion by Senator Carlton, further consideration of **HB 27-E** was deferred.

On motion by Senator Burt, by unanimous consent—

SB 32-E—A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges in specified judicial circuits; providing for election or appointment by the Governor; providing an effective date.

—was taken up out of order and read the second time by title.

The Committee on Appropriations recommended the following amendment which was moved by Senator Burt and failed:

Amendment 1 (944096)—On page 2, lines 6-19, delete those lines and insert: *act for the fifth, sixth, seventh, tenth, twelfth, thirteenth,*

and twentieth judicial circuits shall be filled by election in 2002 pursuant to chapter 105, Florida Statutes. Candidates for those judicial offices shall qualify as provided in chapter 105, Florida Statutes, no earlier than noon on July 22, 2002, and no later than noon on July 26, 2002. Judges elected to office as provided in this subsection shall take office for a term beginning March 1, 2003, and expiring on the first Tuesday after the first Monday in January of the 6th year of the term following the date of election. For purposes of these judicial offices filled by election, a vacancy does not occur until March 1, 2003.

(2) *The judicial offices created by this act for the eighth, ninth, eleventh, fifteenth, seventeenth and*

Senators Burt, Campbell, Cowin, Smith, Geller and Laurent offered the following amendment which was moved by Senator Burt and adopted:

Amendment 2 (451428)—On page 2, lines 5-23, delete all of those lines and insert:

Section 2. (1) *The judicial offices created by this act for the sixth, seventh, eighth, one in the ninth, one in the tenth, twelfth, thirteenth, fifteenth, and one in the seventeenth judicial circuits shall be filled by election in 2002 pursuant to chapter 105, Florida Statutes. Candidates for those judicial offices shall qualify as provided in chapter 105, Florida Statutes, no earlier than noon on July 22, 2002, and no later than noon on July 26, 2002.*

(2) *The judicial offices created by this act for the fifth, one in the ninth, one in the tenth, two in the eleventh, one in the seventeenth, eighteenth, and twentieth judicial circuits shall be filled through appointment by the Governor. Judges appointed as provided in this subsection shall take office for a term beginning on May 1, 2003.*

On motion by Senator Burt, by two-thirds vote **SB 32-E** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

Mr. President	Futch	Pruitt
Brown-Waite	Garcia	Rossin
Burt	Geller	Sanderson
Campbell	Jones	Saunders
Carlton	King	Sebesta
Clary	Klein	Silver
Constantine	Latvala	Smith
Cowin	Laurent	Sullivan
Crist	Lawson	Villalobos
Dawson	Lee	Wasserman Schultz
Diaz de la Portilla	Peaden	Wise
Dyer	Posey	

Nays—4

Holzendorf	Miller	Webster
Meek		

Vote after roll call:

Yea—Mitchell

The Senate resumed consideration of—

HB 27-E—A bill to be entitled An act making appropriations; providing moneys for the annual period beginning July 1, 2002, and ending June 30, 2003, to pay salaries, and other expenses, capital outlay - buildings, and other improvements, and for other specified purposes of the various agencies of State government; providing an effective date.

—which was previously considered this day.

Senator Carlton moved **Amendment 1** which was adopted.

Pursuant to Rule 7.6, **Amendment 1** constituted an entirely new bill and was not published in the Journal.

On motion by Senator Carlton, by two-thirds vote **HB 27-E** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Geller	Pruitt
Brown-Waite	Jones	Sanderson
Burt	King	Saunders
Campbell	Klein	Sebasta
Carlton	Latvala	Silver
Clary	Laurent	Smith
Constantine	Lawson	Sullivan
Cowin	Lee	Villalobos
Crist	Miller	Wasserman Schultz
Diaz de la Portilla	Mitchell	Webster
Futch	Peaden	Wise
Garcia	Posey	

Nays—4

Dawson	Meek	Rossin
Dyer		

MOTION

On motion by Senator Carlton, the Senate acceded to the request of the House to appoint a conference committee.

CONFEREES APPOINTED

The President appointed the following conferees on **HB 27-E**: Senator Carlton, Chairman; At Large Members: Senators Lee and Pruitt; Appropriations Subcommittee on Education: Senator Sullivan, Chairman; Senators Garcia, Holzendorf, Latvala, Miller, Wasserman Schultz and Webster; Appropriations Subcommittee on General Government: Senator Clary, Chairman; Senators Jones, King, Laurent and Lawson; Appropriations Subcommittee on Health and Human Services: Senator Silver, Chairman; Senators Mitchell, Peaden, Sanderson and Saunders; Appropriations Subcommittee on Public Safety and Judiciary: Senator Cowin, Chairman; Senators Burt, Dawson, Meek and Villalobos.

The action of the Senate was certified to the House.

On motion by Senator Carlton, by two-thirds vote **HB 29-E** was withdrawn from the Committee on Appropriations.

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

HB 29-E—A bill to be entitled An act implementing the 2002-2003 General Appropriations Act; providing legislative intent; amending s. 236.081, F.S., relating to the Florida Education Finance Program; revising calculation of additional full-time equivalent membership based on the Advanced International Certificate of Education Program; revising the basis of the quality assurance guarantee; amending s. 229.085, F.S.; exempting personnel employed to plan and administer grants or contracts for specific educational projects from requirements for positions in excess of those authorized; providing accounting requirements for the state universities for the 2002-2003 fiscal year; amending s. 236.081, F.S.; deferring application of a method for adjusting a school district's full-time equivalent membership; providing district school boards flexibility in the use of certain categorical appropriations for purposes of academic classroom instruction; amending s. 236.7011, F.S.; deferring application of a restriction on the expenditure of funds received from the indirect cost allowance on federal grants; providing limitation on state appropriations for Knott Data Center and Projects, Contracts, and Grants Programs; amending s. 240.4015, F.S.; extending the time initial award recipients have to complete certain examinations under the Florida Bright Futures Scholarship Testing Program; amending s. 216.181, F.S.; authorizing the Department of Children and Family Services and the Department of Health to advance certain moneys for certain contract services; amending ss. 430.204 and 430.205, F.S.; requiring the Department of Elderly Affairs to fund certain community care services and core services for the elderly; amending s. 216.292, F.S.; authorizing the Department of Children and Family Services to transfer funds within the family safety program; amending s. 401.113, F.S.; providing that moneys in the Emergency Medical Services Trust Fund may also be used for the purpose of funding the rural hospital capital improvement grant program; amending s. 295.182, F.S.; authorizing contributions to the Florida World War II Veterans Memorial Matching Trust Fund from public bodies; amending s. 561.121, F.S.; providing that moneys in the Children

and Adolescents Substance Abuse Trust Fund may also be used for the purpose of funding programs directed at reducing and eliminating substance abuse problems among adults; amending s. 381.0066, F.S.; continuing the additional fee on new construction permits for onsite sewage treatment and disposal systems the proceeds of which are used for system research, demonstration, and training projects; authorizing the Department of Law Enforcement to use certain moneys to provide bonuses to employees for meritorious performance, subject to review; amending s. 216.181, F.S.; authorizing the Department of Law Enforcement to transfer positions and associated budget and a certain percentage of salary rate between budget entities and providing requirements with respect thereto; authorizing the Correctional Privatization Commission to make certain expenditures to defray costs incurred by a municipality or county as a result of opening or operating a facility under authority of the commission or the Department of Juvenile Justice; amending s. 16.555, F.S.; authorizing use of the Crime Stoppers Trust Fund to pay for salaries and benefits and other expenses of the Department of Legal Affairs; amending s. 860.158, F.S.; providing directives for the use of moneys in the Florida Motor Vehicle Theft Prevention Trust Fund; amending s. 985.4075, F.S.; prohibiting the use of juvenile justice appropriations made for operations as one-time startup funding for fixed capital outlay; amending s. 932.7055, F.S.; allowing municipal special law enforcement trust funds to be used to reimburse certain loans from municipalities; amending s. 375.041, F.S.; providing for use of moneys allocated to the Land Acquisition Trust Fund as provided in the General Appropriations Act; amending s. 403.709, F.S.; providing for use of moneys allocated to the Solid Waste Management Trust Fund as provided in the General Appropriations Act; amending s. 373.59, F.S.; requiring release of certain moneys by the Secretary of Environmental Protection to water management districts, upon request; amending s. 581.1845, F.S.; revising eligibility for compensation of homeowners under the citrus canker eradication program; prescribing the amount of compensation for trees taken in the citrus canker eradication program; amending s. 373.470, F.S.; removing a requirement to deposit certain funds into the Save Our Everglades Trust Fund; amending s. 216.181, F.S.; allowing transfers of positions and funds among departments necessary for implementation of the office of Chief Financial Officer; requiring approval by the Legislative Budget Commission; amending s. 403.7095, F.S.; prescribing conditions on solid waste management and recycling grants; amending s. 215.981, F.S.; exempting certain citizen support organizations for the Department of Environmental Protection from the requirement to have an independent audit; amending s. 287.161, F.S.; requiring the Department of Management Services to charge all persons receiving transportation from the executive aircraft pool a specified rate; amending s. 403.1835, F.S.; authorizing a temporary moratorium in certain counties on reserve requirements for certain water pollution control loans; exempting thoroughbred permitholders from fine or suspension or revocation of license or permit for failure to meet performance and tax requirements; amending s. 255.25, F.S.; exempting certain leases entered into by the state agencies from leasing requirements under specified circumstances; amending s. 110.152, F.S.; authorizing the Department of Management Services to make lump-sum payments for adoption benefits for state employees; amending s. 110.2035, F.S.; revising provisions governing the classification and compensation program for state employees; requiring the Department of Management Services to adopt rules, including emergency rules, necessary to implement such program; amending s. 110.12315, F.S.; providing copayment requirements for the state employees' prescription drug program; providing for a preferred brand name drug list to be used in the administration of such program; amending s. 110.1239, F.S.; providing requirements for the funding of the state group health insurance program; amending s. 112.061, F.S.; providing for computation of travel time and reimbursement for public officers' and employees' travel; amending s. 163.3184, F.S.; prescribing standards for the state land planning agency to use when issuing notice of intent on a comprehensive plan or plan amendment; amending s. 252.373, F.S.; providing for use of certain funds of the Emergency Management, Preparedness, and Assistance Trust Fund for purposes of local disaster preparedness and as state match for federally approved Hazard Mitigation Grant Program projects; amending s. 288.063, F.S.; providing that certain transportation projects may be designated and funded by the Legislature as necessary for economic development; amending s. 402.3017, F.S.; providing for administration of the Teacher Education and Compensation Helps (TEACH) scholarship program; amending s. 125.35, F.S.; authorizing counties to lease certain property in empowerment zones for certain public purposes; amending s. 338.2216, F.S.; providing that certain positions under the Florida Turnpike Enterprise remain in the career service; amending s. 339.12, F.S.; deferring application of a provision grant-

ing preference to certain counties for transportation grants under specified circumstances; amending s. 411.01, F.S.; providing priority for placement of children in the school readiness program; amending s. 215.20, F.S.; appropriating the service charges on certain income and trust funds to the General Revenue Fund; amending s. 215.22, F.S.; exempting certain income and trust funds from such appropriation; amending s. 18.10, F.S.; appropriating certain investment earnings to the General Revenue Fund; amending s. 18.125, F.S.; revising investment requirements for certain trust funds; amending ss. 14.2015, 240.4075, 385.207, 860.158, and 938.01, F.S., to conform; providing for future repeal or expiration of various provisions; providing for reversion of certain provisions; providing effect of veto of specific appropriation or proviso to which implementing language refers; providing applicability to other legislation; incorporating by reference specified performance measures and standards directly linked to the appropriations made in the 2001-2002 General Appropriations Act, as required by the Government Performance and Accountability Act of 1994; providing severability; providing effective dates.

—a companion measure, was substituted for **SB 4-E** and by two-thirds vote read the second time by title.

Senator Carlton moved the following amendment which was adopted:

Amendment 1 (333754)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *It is the intent of the Legislature that the implementing and administering provisions of this act apply to the General Appropriations Act for fiscal year 2002-2003.*

Section 2. *In order to implement Specific Appropriations 1-187 of the 2002-2003 General Appropriations Act, the Secretary of Education, in consultation with the Commissioner of Education, may establish, abolish, or consolidate bureaus, sections, and subsections and reallocate duties and functions within the Department of Education in order to promote the effective and efficient operation of the department and to implement changes to the state system of education initiated by the adoption of the 1998 amendment to Article IX of the State Constitution as implemented by the Legislature in chapter 2001-170, Laws of Florida. Authorized positions and appropriations may be transferred from one budget entity to another as required to implement the reorganization. The secretary may not establish, abolish, or consolidate bureaus, sections, or subsections after December 31, 2002, unless such action is approved by the Legislative Budget Commission. The secretary shall provide a report on the reorganization to the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the Senate and the House of Representatives, and the chairs of the education appropriations committees of the Legislature by January 1, 2003. This section expires July 1, 2003.*

Section 3. Effective upon this act becoming a law, in order to implement section 2 of the 2002-2003 General Appropriations Act, sections 29 and 30 of chapter 2001-170, Laws of Florida, are amended to read:

Section 29. *Effective July 1, 2003, the Department of Education shall maximize the available federal indirect cost allowed on all federal grants. Beginning with the 2003-2004 ~~2002-2003~~ fiscal year, none of the funds received from indirect cost allowance shall be expended by the department without specific appropriation by the Legislature. Funds received pursuant to s. 240.241, Florida Statutes, are specifically exempt from this provision.*

Section 30. Effective July 1, 2003 ~~June 30, 2002~~, section 229.8065, Florida Statutes, is repealed.

Section 4. *Effective upon this act becoming a law, in order to implement section 2 of the 2002-2003 General Appropriations Act, notwithstanding section 229.085(2), Florida Statutes, or any other law, the employment of personnel to execute the terms of grants or contracts for specific projects under the Department of Education's Projects, Contracts, and Grants Trust Fund, or any successor fund to that fund, is not subject to the requirements of section 216.262(1)(a), Florida Statutes. This section expires July 1, 2003.*

Section 5. *In order to implement Specific Appropriation 161 of the 2002-2003 General Appropriations Act, notwithstanding paragraph 240.35(11)(c), Florida Statutes, or any other law, a minimum of 75 percent of the balance of the funds for new awards under that paragraph or*

its successor shall be used to provide financial aid based on absolute need, and the remainder of the funds shall be used for academic merit purposes and other purposes approved by the district boards of trustees. This section expires July 1, 2003.

Section 6. *In order to implement Specific Appropriations 166A-181 of the 2002-2003 General Appropriations Act:*

(1) *Universities in the State University System shall utilize the state accounting system (FLAIR) for fiscal year 2002-2003 but are not required to provide funds to the Department of Banking and Finance for its utilization.*

(2) *Notwithstanding the provisions of sections 216.181, 216.292, and 240.2094, Florida Statutes, or any other law, and pursuant to section 216.351, Florida Statutes, funds appropriated or reappropriated to the state universities in the 2002-2003 General Appropriations Act, or any other act passed by the 2002 Legislature containing appropriations, shall be distributed to each university according to the 2002-2003 fiscal year operating budget approved by the university board of trustees. Each university board of trustees shall have authority to amend the operating budget as circumstances warrant. The operating budget may utilize traditional appropriation categories or it may consolidate the appropriations into a special category appropriation account. The Comptroller or Chief Financial Officer, upon the request of the university board of trustees, shall record by journal transfer the distribution of the appropriated funds and releases according to the approved operating budget to the appropriation accounts established for disbursement purposes for each university within the state accounting system (FLAIR).*

(3) *Notwithstanding the provisions of sections 216.181, 216.292, 240.241, and 240.277, Florida Statutes, or any other law, and pursuant to section 216.351, Florida Statutes, each university board of trustees shall include in an approved operating budget the revenue in trust funds supported by student and other fees as well as the trust funds within the Contract, Grants, and Donations, Auxiliary Enterprises, and Sponsored Research budget entities. The university board of trustees shall have the authority to amend the operating budget as circumstances warrant. The operating budget may utilize traditional appropriation categories or it may consolidate the trust fund spending authority into a special category appropriation account. The Comptroller or Chief Financial Officer, upon the request of the university board of trustees, shall record the distribution of the trust fund spending authority and releases according to the approved operating budget to the appropriation accounts established for disbursement purposes for each university within the state accounting system (FLAIR).*

(4) *This section expires July 1, 2003.*

Section 7. In order to implement Specific Appropriations 303-338 of the 2002-2003 General Appropriations Act, subsection (12) of section 216.292, Florida Statutes, is amended to read:

216.292 Appropriations nontransferable; exceptions.—

(12) For the 2002-2003 ~~2001-2002~~ fiscal year only and notwithstanding the other provisions of this section, the Department of Children and Family Services may transfer funds within the family safety program identified in the General Appropriations Act from identical funding sources between the following appropriation categories without limitation as long as such a transfer does not result in an increase to the total recurring general revenue or trust fund cost of the agency in the subsequent fiscal year: adoption services and subsidy; family foster care; and emergency shelter care. Such transfers must be consistent with legislative policy and intent and must not adversely affect achievement of approved performance outcomes or outputs in the family safety program. Notice of proposed transfers under this authority must be provided to the Executive Office of the Governor and the chairs of the legislative appropriations committees at least 5 working days before their implementation. This subsection expires July 1, 2003 ~~2002~~.

Section 8. In order to implement Specific Appropriations 349, 1170, 2877, and 3119 of the 2002-2003 General Appropriations Act, section 215.20, Florida Statutes, as amended by section 2 of chapter 2002-46, Laws of Florida, is amended to read:

(Substantial rewording of section. See s. 215.20, F.S., for present text.)

215.20 *Certain income and certain trust funds to contribute to the General Revenue Fund.—*

(1) *A service charge of 7 percent, representing the estimated pro rata share of the cost of general government paid from the General Revenue Fund, is appropriated from all income of a revenue nature deposited in all trust funds except those enumerated in s. 215.22. Income of a revenue nature shall include all earnings received or credited by such trust funds, including the interest or benefit received from the investment of the principal of such trust funds as may be permitted by law. This provision shall be construed in favor of the General Revenue Fund in each instance. All such appropriations shall be deposited in the General Revenue Fund.*

(2) *Notwithstanding the provisions of subsection (1):*

(a) *The trust funds of the Department of Citrus and the Department of Agriculture and Consumer Services, including funds collected in the General Inspection Trust Fund for marketing orders and in the Florida Citrus Advertising Trust Fund, shall be subject to a 3-percent service charge, which is hereby appropriated to the General Revenue Fund. This paragraph does not apply to the Conservation and Recreation Lands Program Trust Fund, the Florida Quarter Horse Racing Promotion Trust Fund, the Citrus Inspection Trust Fund, the Florida Forever Program Trust Fund, the Florida Preservation 2000 Trust Fund, the Market Improvements Working Capital Trust Fund, the Pest Control Trust Fund, the Plant Industry Trust Fund, or other funds collected in the General Inspection Trust Fund in the Department of Agriculture and Consumer Services.*

(b) *The Save the Manatee Trust Fund in the Fish and Wildlife Conservation Commission shall be subject to a 3-percent service charge, which is appropriated to the General Revenue Fund.*

(3) *A service charge of 0.3 percent is appropriated from income of a revenue nature deposited in the trust funds enumerated in subsection (4). Income of a revenue nature shall include all earnings received or credited by such trust funds, including the interest or benefit received from the investment of the principal of such trust funds as may be permitted by law. This provision shall be construed in favor of the General Revenue Fund in each instance. All such appropriations shall be deposited in the General Revenue Fund.*

(4) *The income of a revenue nature deposited in the following described trust funds, by whatever name designated, is that from which the appropriations authorized by subsection (3) shall be made:*

(a) *Within the Agency for Health Care Administration:*

1. *The Florida Organ and Tissue Donor Education and Procurement Trust Fund.*
2. *The Health Care Trust Fund.*
3. *The Resident Protection Trust Fund.*

(b) *Within the Agency for Workforce Innovation, the Employment Security Administration Trust Fund.*

(c) *Within the Department of Agriculture and Consumer Services:*

1. *The Conservation and Recreation Lands Program Trust Fund.*
2. *The Florida Quarter Horse Racing Promotion Trust Fund.*
3. *The General Inspection Trust Fund and subsidiary accounts thereof, unless a different percentage is authorized by s. 570.20.*

(d) *Within the Department of Banking and Finance:*

1. *The Administrative Trust Fund.*
2. *The Anti-Fraud Trust Fund.*
3. *The Financial Institutions' Regulatory Trust Fund.*
4. *The Mortgage Brokerage Guaranty Fund.*
5. *The Regulatory Trust Fund.*

(e) *Within the Department of Business and Professional Regulation:*

1. *The Administrative Trust Fund.*
 2. *The Alcoholic Beverage and Tobacco Trust Fund.*
 3. *The Cigarette Tax Collection Trust Fund.*
 4. *The Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund.*
 5. *The Hotel and Restaurant Trust Fund, with the exception of those fees collected for the purpose of funding of the hospitality education program as stated in s. 509.302.*
 6. *The Professional Regulation Trust Fund.*
 7. *The trust funds administered by the Division of Pari-mutuel Wagering.*
- (f) *Within the Department of Children and Family Services:*
1. *The Administrative Trust Fund.*
 2. *The Child Welfare Training Trust Fund.*
 3. *The Children and Adolescents Substance Abuse Trust Fund.*
 4. *The Domestic Violence Trust Fund.*
 5. *The Grants and Donations Trust Fund.*
 6. *The Operations and Maintenance Trust Fund.*
- (g) *Within the Department of Citrus, the Florida Citrus Advertising Trust Fund, including transfers from any subsidiary accounts thereof, unless a different percentage is authorized in s. 601.15(7).*
- (h) *Within the Department of Community Affairs, the Operating Trust Fund.*
- (i) *Within the Department of Education:*
1. *The Educational Certification and Service Trust Fund.*
 2. *The Phosphate Research Trust Fund.*
- (j) *Within the Department of Elderly Affairs:*
1. *The Administrative Trust Fund.*
 2. *The Federal Grants Trust Fund.*
 3. *The Grants and Donations Trust Fund.*
 4. *The Operations and Maintenance Trust Fund.*
- (k) *Within the Department of Environmental Protection:*
1. *The Administrative Trust Fund.*
 2. *The Air Pollution Control Trust Fund.*
 3. *The Conservation and Recreation Lands Trust Fund.*
 4. *The Ecosystem Management and Restoration Trust Fund.*
 5. *The Environmental Laboratory Trust Fund.*
 6. *The Florida Coastal Protection Trust Fund.*
 7. *The Florida Permit Fee Trust Fund.*
 8. *The Forfeited Property Trust Fund.*
 9. *The Grants and Donations Trust Fund.*
 10. *The Inland Protection Trust Fund.*
 11. *The Internal Improvement Trust Fund.*
 12. *The Land Acquisition Trust Fund.*

13. *The Minerals Trust Fund.*
 14. *The Nonmandatory Land Reclamation Trust Fund.*
 15. *The State Park Trust Fund.*
 16. *The Water Quality Assurance Trust Fund.*
 17. *The Working Capital Trust Fund.*
 - (l) *Within the Department of Health:*
 1. *The Administrative Trust Fund.*
 2. *The Brain and Spinal Cord Injury Program Trust Fund.*
 3. *The Donations Trust Fund.*
 4. *The Emergency Medical Services Trust Fund.*
 5. *The Epilepsy Services Trust Fund.*
 6. *The Florida Drug, Device, and Cosmetic Trust Fund.*
 7. *The Grants and Donations Trust Fund.*
 8. *The Medical Quality Assurance Trust Fund.*
 9. *The Nursing Student Loan Forgiveness Trust Fund.*
 10. *The Planning and Evaluation Trust Fund.*
 11. *The Radiation Protection Trust Fund.*
 - (m) *Within the Department of Highway Safety and Motor Vehicles, the DUI Programs Coordination Trust Fund.*
 - (n) *Within the Department of Insurance:*
 1. *The Agents and Solicitors County Tax Trust Fund.*
 2. *The Insurance Commissioner's Regulatory Trust Fund.*
 - (o) *Within the Department of Labor and Employment Security or, if such department is terminated, within the agency or department to which the named trust fund has been transferred:*
 1. *The Special Disability Trust Fund.*
 2. *The Special Employment Security Administration Trust Fund.*
 3. *The Workers' Compensation Administration Trust Fund.*
 - (p) *Within the Department of Legal Affairs, the Crimes Compensation Trust Fund.*
 - (q) *Within the Department of Management Services:*
 1. *The Administrative Trust Fund.*
 2. *The Architects Incidental Trust Fund.*
 3. *The Bureau of Aircraft Trust Fund.*
 4. *The Florida Facilities Pool Working Capital Trust Fund.*
 5. *The Grants and Donations Trust Fund.*
 6. *The Motor Vehicle Operating Trust Fund.*
 7. *The Police and Firefighters' Premium Tax Trust Fund.*
 8. *The Public Employees Relations Commission Trust Fund.*
 9. *The State Personnel System Trust Fund.*
 10. *The Supervision Trust Fund.*
 11. *The Working Capital Trust Fund.*
 - (r) *Within the Department of Revenue:*
 1. *The Additional Court Cost Clearing Trust Fund.*
 2. *The Administrative Trust Fund.*
 3. *The Apalachicola Bay Oyster Surcharge Clearing Trust Fund.*
 4. *The Certification Program Trust Fund.*
 5. *The Fuel Tax Collection Trust Fund.*
 6. *The Land Reclamation Trust Fund.*
 7. *The Local Alternative Fuel User Fee Clearing Trust Fund.*
 8. *The Local Option Fuel Tax Trust Fund.*
 9. *The Motor Vehicle Rental Surcharge Clearing Trust Fund.*
 10. *The Motor Vehicle Warranty Trust Fund.*
 11. *The Oil and Gas Tax Trust Fund.*
 12. *The Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund.*
 13. *The Severance Tax Solid Mineral Trust Fund.*
 14. *The State Alternative Fuel User Fee Clearing Trust Fund.*
 15. *All taxes levied on motor fuels other than gasoline levied pursuant to the provisions of s. 206.87(1)(a).*
 - (s) *Within the Department of State:*
 1. *The Division of Licensing Trust Fund.*
 2. *The Records Management Trust Fund.*
 3. *The trust funds administered by the Division of Historical Resources.*
 - (t) *Within the Department of Transportation, all income derived from outdoor advertising and overweight violations which is deposited in the State Transportation Trust Fund.*
 - (u) *Within the Department of Veterans' Affairs:*
 1. *The Grants and Donations Trust Fund.*
 2. *The Operations and Maintenance Trust Fund.*
 3. *The State Homes for Veterans Trust Fund.*
 - (v) *Within the Division of Administrative Hearings, the Administrative Trust Fund.*
 - (w) *Within the Fish and Wildlife Conservation Commission:*
 1. *The Conservation and Recreation Lands Program Trust Fund.*
 2. *The Florida Panther Research and Management Trust Fund.*
 3. *The Land Acquisition Trust Fund.*
 4. *The Marine Resources Conservation Trust Fund, with the exception of those fees collected for recreational saltwater fishing licenses as provided in s. 372.57.*
 - (x) *Within the Florida Public Service Commission, the Florida Public Service Regulatory Trust Fund.*
 - (y) *Within the Justice Administrative Commission, the Indigent Criminal Defense Trust Fund.*
- The enumeration of the foregoing moneys or trust funds shall not prohibit the applicability thereto of s. 215.24 should the Governor determine that for the reasons mentioned in s. 215.24 the money or trust funds should be exempt herefrom, as it is the purpose of this law to exempt income from its force and effect when, by the operation of this law, federal matching funds or contributions or private grants to any trust fund would be lost to the state.*

(5) *There is appropriated from the proper respective trust funds from time to time such sums as may be necessary to pay to the General Revenue Fund the service charges imposed by this section.*

Section 9. *The amendment of section 215.20, Florida Statutes, by this act shall expire on July 1, 2003, and the text of that section shall revert to that in existence on June 30, 2002, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text which expire pursuant to the provisions of this act.*

Section 10. In order to implement Specific Appropriations 349, 1170, 2877, and 3119 of the 2002-2003 General Appropriations Act, subsection (1) of section 215.22, Florida Statutes, is amended to read:

215.22 Certain income and certain trust funds exempt.—

(1) The following income of a revenue nature or the following trust funds shall be exempt from the ~~appropriation deduction~~ required by s. 215.20(1):

- (a) Student financial aid or prepaid tuition receipts.
- (b) Trust funds administered by the Department of the Lottery.
- (c) Departmental administrative assessments for administrative divisions.
- (d) Funds charged by a state agency for services provided to another state agency, by a state agency for services provided to the judicial branch, or by the judicial branch for services provided to a state agency.
- (e) State, agency, or political subdivision investments by the Treasurer.
- (f) Retirement or employee benefit funds.
- (g) Self-insurance programs administered by the Treasurer.
- (h) Funds held for the payment of citrus canker eradication and compensation.
- (i) Medicaid, Medicare, or third-party receipts for client custodial care.
- (j) Bond proceeds or revenues dedicated for bond repayment, except for the Documentary Stamp Clearing Trust Fund administered by the Department of Revenue.
- (k) Trust funds administered by the Department of Education.
- (l) Trust funds administered by the Department of Transportation.
- (m) *The following trust funds administered by the Department of Agriculture and Consumer Services:*
 1. *The Citrus Inspection Trust Fund.*
 2. *The Florida Forever Program Trust Fund.*
 3. *The Florida Preservation 2000 Trust Fund.*
 4. *The Market Improvements Working Capital Trust Fund.*
 5. *The Pest Control Trust Fund.*
 6. *The Plant Industry Trust Fund.*
- (n) The Motor Vehicle License Clearing Trust Fund.
- (o) The Solid Waste Management Trust Fund.
- (p) The Coconut Grove Playhouse Trust Fund.
- (q) The Communications Working Capital Trust Fund of the Department of Management Services.
- (r) The Camp Blanding Management Trust Fund.
- (s) The Indigent Criminal Defense Trust Fund.

(t) That portion of the Highway Safety Operating Trust Fund funded by the motorcycle safety education fee collected pursuant to s. 320.08(1)(c).

~~(u) The Save the Manatee Trust Fund.~~

~~(u)(*)~~ Tobacco Settlement Trust Funds administered by any agency.

~~(v)(*)~~ The Save Our Everglades Trust Fund.

Section 11. *The amendment of subsection (1) of section 215.22, Florida Statutes, by this act shall expire on July 1, 2003, and the text of that subsection shall revert to that in existence on June 30, 2002, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text which expire pursuant to the provisions of this act.*

Section 12. In order to implement Specific Appropriations 349, 1170, and 3119 of the 2002-2003 General Appropriations Act, subsection (4) of section 18.10, Florida Statutes, is amended to read:

18.10 Deposits and investments of state money.—

(4) All earnings on any investments made pursuant to this section ~~are appropriated~~ shall be credited to the General Revenue Fund, except that earnings attributable to moneys made available pursuant to s. 18.125(3)(a) and (b) shall be credited pro rata to the funds from which such moneys were made available.

Section 13. *The amendment of subsection (4) of section 18.10, Florida Statutes, by this act shall expire on July 1, 2003, and the text of that subsection shall revert to that in existence on June 30, 2002, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text which expire pursuant to the provisions of this act.*

Section 14. In order to implement Specific Appropriations 349, 1170, and 3119 of the 2002-2003 General Appropriations Act, subsection (3) of section 18.125, Florida Statutes, is amended to read:

18.125 Treasurer; powers and duties in the investment of certain funds.—

(3)(a) *Except as otherwise provided in this subsection, it is the duty of each state agency, and of the judicial branch, now or hereafter charged with the administration of the funds referred to in subsection (1) to make such moneys available for investment as fully as is consistent with the cash requirements of the particular fund and to authorize investment of such moneys by the Treasurer.*

(b) Monthly, and more often as circumstances require, such agency or judicial branch shall notify the Treasurer of the amount available for investment; and the moneys shall be invested by the Treasurer. Such notification shall include the name and number of the fund for which the investments are to be made and the life of the investment if the principal sum is to be required for meeting obligations. This subsection, however, shall not be construed to make available for investment any funds other than those referred to in subsection (1).

(c) *Except as provided in this paragraph and except for moneys described in paragraph (d), the following agencies shall not invest trust fund moneys as provided in this section, but shall retain such moneys in their respective trust funds for investment, with interest appropriated to the General Revenue Fund, pursuant to s. 18.10:*

1. *The Agency for Health Care Administration, except for the Tobacco Settlement Trust Fund.*
2. *The Department of Children and Family Services, except for:*
 - a. *The Alcohol, Drug Abuse, and Mental Health Trust Fund.*
 - b. *The Community Resources Development Trust Fund.*
 - c. *The Refugee Assistance Trust Fund.*
 - d. *The Social Services Block Grant Trust Fund.*

- e. *The Tobacco Settlement Trust Fund.*
- f. *The Working Capital Trust Fund.*
- 3. *The Department of Community Affairs, only for the Operating Trust Fund.*
- 4. *The Department of Corrections.*
- 5. *The Department of Elderly Affairs, except for:*
 - a. *The Federal Grants Trust Fund.*
 - b. *The Tobacco Settlement Trust Fund.*
- 6. *The Department of Health, except for:*
 - a. *The Federal Grants Trust Fund.*
 - b. *The Grants and Donations Trust Fund.*
- c. *The Maternal and Child Health Block Grant Trust Fund.*
- d. *The Tobacco Settlement Trust Fund.*
- 7. *The Department of Highway Safety and Motor Vehicles, only for:*
 - a. *The DUI Programs Coordination Trust Fund.*
 - b. *The Security Deposits Trust Fund.*
- 8. *The Department of Juvenile Justice.*
- 9. *The Department of Labor and Employment Security, only for the Administrative Trust Fund.*
- 10. *The Department of Law Enforcement.*
- 11. *The Department of Legal Affairs.*
- 12. *The Department of State, only for:*
 - a. *The Grants and Donations Trust Fund.*
 - b. *The Records Management Trust Fund.*
- 13. *The Executive Office of the Governor, only for:*
 - a. *The Economic Development Transportation Trust Fund.*
 - b. *The Economic Development Trust Fund.*
- 14. *The Florida Public Service Commission, only for the Florida Public Service Regulatory Trust Fund.*
- 15. *The Justice Administrative Commission.*
- 16. *The state courts system.*
- (d) *Moneys in any trust funds of the agencies in paragraph (c) may be invested pursuant to the provisions of this section if:*
 - 1. *Investment of such moneys and the retention of interest is required by federal programs or mandates;*
 - 2. *Investment of such moneys and the retention of interest is required by bond covenants, indentures, or resolutions;*
 - 3. *Such moneys are held by the state in a trustee capacity as an agent or fiduciary for individuals, private organizations, or other governmental units; or*
 - 4. *The Executive Office of the Governor determines, after consultation with the Legislature pursuant to the procedures of s. 216.177, that federal matching funds or contributions or private grants to any trust fund would be lost to the state.*

Section 15. *The amendment of subsection (3) of section 18.125, Florida Statutes, by this act shall expire on July 1, 2003, and the text of that subsection shall revert to that in existence on June 30, 2002, except that any amendments to such text enacted other than by this act shall be*

preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text which expire pursuant to the provisions of this act.

Section 16. In order to implement Specific Appropriation 3119 of the 2002-2003 General Appropriations Act, paragraph (f) of subsection (2) of section 14.2015, Florida Statutes, is amended to read:

14.2015 Office of Tourism, Trade, and Economic Development; creation; powers and duties.—

(2) The purpose of the Office of Tourism, Trade, and Economic Development is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to provide economic opportunities for all Floridians. To accomplish such purposes, the Office of Tourism, Trade, and Economic Development shall:

(f)1. Administer the Florida Enterprise Zone Act under ss. 290.001-290.016, the community contribution tax credit program under ss. 220.183 and 624.5105, the tax refund program for qualified target industry businesses under s. 288.106, the tax-refund program for qualified defense contractors under s. 288.1045, contracts for transportation projects under s. 288.063, the sports franchise facility program under s. 288.1162, the professional golf hall of fame facility program under s. 288.1168, the expedited permitting process under s. 403.973, the Rural Community Development Revolving Loan Fund under s. 288.065, the Regional Rural Development Grants Program under s. 288.018, the Certified Capital Company Act under s. 288.99, the Florida State Rural Development Council, the Rural Economic Development Initiative, and other programs that are specifically assigned to the office by law, by the appropriations process, or by the Governor. Notwithstanding any other provisions of law, the office may expend interest earned from the investment of program funds deposited in the ~~Economic Development Trust Fund, the Grants and Donations Trust Fund and the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund, and the Economic Development Transportation Trust Fund~~ to contract for the administration of the programs, or portions of the programs, enumerated in this paragraph or assigned to the office by law, by the appropriations process, or by the Governor. Such expenditures shall be subject to review under chapter 216.

2. The office may enter into contracts in connection with the fulfillment of its duties concerning the Florida First Business Bond Pool under chapter 159, tax incentives under chapters 212 and 220, tax incentives under the Certified Capital Company Act in chapter 288, foreign offices under chapter 288, the Enterprise Zone program under chapter 290, the Seaport Employment Training program under chapter 311, the Florida Professional Sports Team License Plates under chapter 320, Spaceport Florida under chapter 331, Expedited Permitting under chapter 403, and in carrying out other functions that are specifically assigned to the office by law, by the appropriations process, or by the Governor.

Section 17. *The amendment of paragraph (f) of subsection (2) of section 14.2015, Florida Statutes, by this act shall expire on July 1, 2003, and the text of that paragraph shall revert to that in existence on June 30, 2002, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text which expire pursuant to the provisions of this act.*

Section 18. In order to implement Specific Appropriation 349 of the 2002-2003 General Appropriations Act, subsection (7) of section 240.4075, Florida Statutes, is amended to read:

240.4075 Nursing Student Loan Forgiveness Program.—

(7)(a) Funds contained in the Nursing Student Loan Forgiveness Trust Fund which are to be used for loan forgiveness for those nurses employed by hospitals, birth centers, and nursing homes must be matched on a dollar-for-dollar basis by contributions from the employing institutions, except that this provision shall not apply to state-operated medical and health care facilities, public schools, county health departments, federally sponsored community health centers, teaching hospitals as defined in s. 408.07, family practice teaching hospitals as defined in s. 395.805, or specialty hospitals for children as used in s. 409.9119. If in any given fiscal quarter there are insufficient funds in the trust fund to grant all eligible applicant requests, awards shall be based on

the following priority of employer: county health departments; federally sponsored community health centers; state-operated medical and health care facilities; public schools; teaching hospitals as defined in s. 408.07; family practice teaching hospitals as defined in s. 395.805; specialty hospitals for children as used in s. 409.9119; and other hospitals, birth centers, and nursing homes.

~~(b) All Nursing Student Loan Forgiveness Trust Fund moneys shall be invested pursuant to s. 18.125. Interest income accruing to that portion of the trust fund not matched shall increase the total funds available for loan forgiveness and scholarships. Pledged contributions shall not be eligible for matching prior to the actual collection of the total private contribution for the year.~~

Section 19. *The amendment of subsection (7) of section 240.4075, Florida Statutes, by this act shall expire on July 1, 2003, and the text of that subsection shall revert to that in existence on June 30, 2002, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text which expire pursuant to the provisions of this act.*

Section 20. In order to implement Specific Appropriation 349 of the 2002-2003 General Appropriations Act, subsection (3) of section 385.207, Florida Statutes, is amended to read:

385.207 Care and assistance of persons with epilepsy; establishment of programs in epilepsy control.—

(3) Revenue for statewide implementation of programs for epilepsy prevention and education pursuant to this section shall be derived pursuant to the provisions of s. 318.21(6) and shall be deposited in the Epilepsy Services Trust Fund, which is hereby established to be administered by the Department of Health. ~~All funds deposited into the trust fund shall be invested pursuant to the provisions of s. 18.125. Interest income accruing to such invested funds shall increase the total funds available under this subsection.~~

Section 21. *The amendment of subsection (3) of section 385.207, Florida Statutes, by this act shall expire on July 1, 2003, and the text of that subsection shall revert to that in existence on June 30, 2002, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text which expire pursuant to the provisions of this act.*

Section 22. In order to implement Specific Appropriation 1170 of the 2002-2003 General Appropriations Act, subsection (1) of section 860.158, Florida Statutes, is amended to read:

860.158 Florida Motor Vehicle Theft Prevention Trust Fund.—

(1) There is hereby established within the Department of Legal Affairs the Florida Motor Vehicle Theft Prevention Trust Fund, which shall be administered by the executive director of the authority at the direction of the board. ~~All interest earned from the investment or deposit of moneys accumulated in the trust fund shall be deposited in the trust fund.~~ The trust fund shall be funded from the surcharge collected under s. 320.08046.

Section 23. *The amendment of subsection (1) of section 860.158, Florida Statutes, by this act shall expire on July 1, 2003, and the text of that subsection shall revert to that in existence on June 30, 2002, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text which expire pursuant to the provisions of this act.*

Section 24. In order to implement Specific Appropriation 1170 of the 2002-2003 General Appropriations Act, subsection (1) of section 938.01, Florida Statutes, as amended by section 18 of chapter 2002-55, Laws of Florida, is amended to read:

938.01 Additional Court Cost Clearing Trust Fund.—

(1) All courts created by Art. V of the State Constitution shall, in addition to any fine or other penalty, assess \$3 as a court cost against every person convicted for violation of a state penal or criminal statute or convicted for violation of a municipal or county ordinance. Any person

whose adjudication is withheld pursuant to the provisions of s. 318.14(9) or (10) shall also be assessed such cost. In addition, \$3 from every bond estreature or forfeited bail bond related to such penal statutes or penal ordinances shall be remitted to the Department of Revenue as described in this subsection. However, no such assessment may be made against any person convicted for violation of any state statute, municipal ordinance, or county ordinance relating to the parking of vehicles.

(a) All costs collected by the courts pursuant to this subsection shall be remitted to the Department of Revenue in accordance with administrative rules adopted by the executive director of the Department of Revenue for deposit in the Additional Court Cost Clearing Trust Fund. These funds and the funds deposited in the Additional Court Cost Clearing Trust Fund pursuant to s. 318.21(2)(c) shall be distributed as follows:

1. Ninety-two percent to the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund.

2. Six and three-tenths percent to the Department of Law Enforcement Operating Trust Fund for the Criminal Justice Grant Program.

3. One and seven-tenths percent to the Department of Children and Family Services Domestic Violence Trust Fund for the domestic violence program pursuant to s. 39.903(3).

~~(b) The funds deposited in the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund, the Department of Law Enforcement Operating Trust Fund, and the Department of Children and Family Services Domestic Violence Trust Fund may be invested. Any interest earned from investing such funds and any unencumbered funds remaining at the end of the budget cycle shall remain in the respective trust fund.~~

(b)(e) All funds in the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund shall be disbursed only in compliance with s. 943.25(9).

Section 25. *The amendment of subsection (1) of section 938.01, Florida Statutes, by this act shall expire on July 1, 2003, and the text of that subsection shall revert to that in existence on June 30, 2002, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text which expire pursuant to the provisions of this act.*

Section 26. In order to implement Specific Appropriation 672 of the 2002-2003 General Appropriations Act, section 295.182, Florida Statutes, is amended to read:

295.182 Florida World War II Veterans Memorial Matching Trust Fund; contributions; use.—

(1) The Florida World War II Veterans Memorial Matching Trust Fund, if created by law, within the Department of Veterans' Affairs shall receive private contributions and matching state funds specifically appropriated by the Legislature for the purpose of matching private donations deposited into the trust fund to build a Florida World War II Veterans Memorial as provided by this act. The department is authorized to use moneys in the trust fund, if created by law, in a manner which will generate increased funding for the Florida World War II Veterans Memorial. Contributions to the Florida World War II Veterans Memorial Matching Trust Fund must be returned to those entities or individuals contributing to the trust fund if the Florida World War II Veterans Memorial is not constructed as provided for in s. 295.183.

(2) *For the 2002-2003 fiscal year only, the department may receive contributions from public bodies as defined in s. 1.01(8). Public bodies are authorized to appropriate funds, in lump sum or otherwise, for the purpose of making contributions to the trust fund. This subsection expires July 1, 2003.*

Section 27. In order to implement Specific Appropriations 691-806 and 843-857 of the 2002-2003 General Appropriations Act, subsection (4) of section 216.262, Florida Statutes, is amended to read:

216.262 Authorized positions.—

(4) Notwithstanding the provisions of this chapter on increasing the number of authorized positions, and for the 2002-2003 ~~2001-2002~~ fiscal year only,:

(a) if the actual inmate population of the Department of Corrections exceeds by 2 percent for 2 consecutive months or more the inmate population projected by the most recent Criminal Justice Estimating Conference on February 16, 2001, the Executive Office of the Governor may request positions in excess of the number authorized by the Legislature and sufficient funding from the Working Capital Fund to operate the additional prison bed capacity necessary to accommodate the actual inmate population. *This subsection expires July 1, 2003.*

~~(b) If, by October 1, 2001, a contract with a private vendor or vendors for the delivery of health care services at institutions located in Department of Corrections Region IV has not been executed, up to 97 positions in excess of the number authorized and appropriate salary rate may be approved, provided that sufficient funds are available to pay salaries and benefits. If a contract for the provision of health care services in the Department of Corrections Region IV is subsequently executed, the Executive Office of the Governor shall place these positions and associated salary rate into reserve.~~

~~(c) In order to implement a Close Management Consolidation Plan in the Department of Corrections, positions in excess of the number authorized and appropriate salary rate may be approved provided that the Secretary of Corrections certifies that there are no vacant positions that may be used for this purpose.~~

~~Such requests are subject to the budget amendment and consultation provisions of this chapter. This subsection expires July 1, 2002.~~

Section 28. *In order to implement proviso language following Specific Appropriation 1178 of the 2002-2003 General Appropriations Act, the Correctional Privatization Commission may expend appropriated funds to assist in defraying the costs of impacts which are incurred by a municipality or county and associated with opening or operating a facility under the authority of the Correctional Privatization Commission or a facility under the authority of the Department of Juvenile Justice which is located within that municipality or county. The amount that is to be paid under this section for any facility may not exceed 1 percent of the facility construction cost, less building impact fees imposed by the municipality or by the county if the facility is located in the unincorporated portion of the county. This section expires July 1, 2003.*

Section 29. In order to implement Specific Appropriation 1291 of the 2002-2003 General Appropriations Act, paragraph (b) of subsection (3) of section 16.555, Florida Statutes, as created by section 8 of chapter 2001-380, Laws of Florida, is amended to read:

16.555 Crime Stoppers Trust Fund; rulemaking.—

(3)

(b) For the 2002-2003 ~~2001-2002~~ state fiscal year only, and notwithstanding any provision of this section to the contrary, moneys in the trust fund may also be used to pay for salaries and benefits and other expenses of the department. This paragraph expires July 1, 2003 ~~2002~~.

Section 30. In order to implement Specific Appropriations 1291 and 1322 of the 2002-2003 General Appropriations Act, paragraph (b) of subsection (2) of section 860.158, Florida Statutes, as created by section 9 of chapter 2001-380, Laws of Florida, is amended to read:

860.158 Florida Motor Vehicle Theft Prevention Trust Fund.—

(2)

(b) For the 2002-2003 ~~2001-2002~~ fiscal year only, and notwithstanding s. 320.08046, the use of funds allocated to the Florida Motor Vehicle Theft Prevention Trust Fund may also be as provided in the *General Appropriations Act Senate Bill 2-C*. This paragraph expires July 1, 2003 ~~2002~~.

Section 31. In order to implement Specific Appropriations 889-1070, 3165, and 3201-3222 of the 2002-2003 General Appropriations Act, section 25.402, Florida Statutes, is amended to read:

25.402 County Article V Trust Fund.—

(1)(a) The trust fund moneys in the County Article V Trust Fund, administered by the Supreme Court, may be used to compensate counties for the costs they incur under Article V of the State Constitution in

operating the state courts system, including the costs they incur in providing and maintaining court facilities.

(b) The Supreme Court shall adopt an allocation and disbursement plan for the operation of the trust fund and the expenditure of moneys deposited in the trust fund. The Supreme Court shall include the plan in its legislative budget request. A committee of 15 people shall develop and recommend the allocation and disbursement plan to the Supreme Court. The committee shall be composed of:

1. Six persons appointed by the Florida Association of Counties, as follows:

a. Two persons residing in counties with populations fewer than 90,000.

b. Two persons residing in counties with populations greater than 89,999, but fewer than 700,000.

c. Two persons residing in counties with populations greater than 699,999.

2. Six persons appointed by the Chief Justice of the Supreme Court, as follows:

a. Two persons residing in counties with populations fewer than 90,000.

b. Two persons residing in counties with populations greater than 89,999, but fewer than 700,000.

c. Two persons residing in counties with populations greater than 699,999.

3. Three persons appointed by the Florida Association of Court Clerks and Comptrollers, as follows:

a. One person residing in a county with a population fewer than 90,000.

b. One person residing in a county with a population greater than 89,999, but fewer than 700,000.

c. One person residing in a county with a population greater than 699,999.

The allocation and disbursement plan shall include provisions to compensate counties with fewer than 90,000 residents for court facility needs.

(c) Amendments to the approved operating budget for expenditures from the County Article V Trust Fund must be approved in accordance with the provisions of s. 216.181. The total amount disbursed from the County Article V Trust Fund may not exceed the amount authorized by the General Appropriations Act.

(d) Effective July 1, 2001, moneys generated from civil penalties distributed under s. 318.21(2) and ~~s. 318.21(2)(b) shall be~~ deposited in the trust fund ~~may be used~~ for the following purposes:

1. Funds paid to counties with populations fewer than 90,000 shall be grants-in-aid to be used, in priority order, for: operating expenditures of the offices of the state attorneys and public defenders *as appropriated by the Legislature in accordance with Specific Appropriation 2978B*; consulting or architectural studies related to the improvement of courthouse facilities; improving court facilities to ensure compliance with the Americans with Disabilities Act and other federal or state requirements; other renovations in court facilities; improvements in court security; and expert witness fees in criminal cases, court reporting and transcribing costs in criminal cases, and costs associated with the appointment of special public defenders.

2. Funds paid to counties with populations exceeding 89,999 shall be grants-in-aid to be used, in priority order, for operating expenditures of the offices of the state attorneys and public defenders *as appropriated by the Legislature in accordance with Specific Appropriation 2978B*, costs paid by the county for expert witness fees in criminal cases, court reporting and transcribing costs in criminal cases, and costs associated with the appointment of special public defenders.

3. Funds may be appropriated for the operation of the trial courts.

(2) This section expires June 30, 2003 ~~2002~~.

Section 32. In order to implement Specific Appropriation 1480A of the 2002-2003 General Appropriations Act, subsections (2) and (6) of section 581.1845, Florida Statutes, as amended by section 11 of chapter 2001-380, Laws of Florida, are amended to read:

581.1845 Citrus canker eradication; compensation to homeowners whose trees have been removed.—

(2) To be eligible to receive compensation under the program, a homeowner must:

(a) Be the homeowner of record on *July 1, 2001*, ~~the effective date of this act~~ for residential property where one or more citrus trees have been removed as part of a citrus canker eradication program, *except that, for the 2002-2003 fiscal year only, a homeowner must be the homeowner of record on the date the trees were removed in order to be eligible to receive compensation;*

(b) Have had one or more citrus trees removed from the property by a tree-cutting contractor as part of a citrus canker eradication program on or after January 1, 1995; and

(c) Have received no commercial compensation and is not eligible to receive commercial compensation from the United States Department of Agriculture for citrus trees removed as part of a citrus canker eradication program.

(6)(a) For the 2001-2002 fiscal year only and notwithstanding the \$100-compensation amount specified in subsection (3); in subsection (3) of section 45 of chapter 2001-254, Laws of Florida; and in proviso following Specific Appropriation 1488A of chapter 2001-253, Laws of Florida, the amount of compensation for each tree removed from residential property by the citrus canker eradication program shall be \$55. This ~~paragraph subsection~~ expires July 1, 2002.

(b) For the 2002-2003 fiscal year only and notwithstanding the \$100-compensation amount specified in subsection (3), the amount of compensation for each tree removed from residential property by the citrus canker eradication program shall be \$55. This paragraph expires July 1, 2003.

Section 33. In order to implement Specific Appropriations 1517 and 1523 of the 2002-2003 General Appropriations Act, subsection (1) of section 252.373, Florida Statutes, is amended to read:

252.373 Allocation of funds; rules.—

(1)(a) Funds appropriated from the Emergency Management, Preparedness, and Assistance Trust Fund shall be allocated by the Department of Community Affairs as follows:

1. Sixty percent to implement and administer state and local emergency management programs, including training, of which 20 percent shall be used by the division and 80 percent shall be allocated to local emergency management agencies and programs. Of this 80 percent, at least 80 percent shall be allocated to counties.

2. Twenty percent to provide for state relief assistance for nonfederally declared disasters, including but not limited to grants and below-interest-rate loans to businesses for uninsured losses resulting from a disaster.

3. Twenty percent for grants and loans to state or regional agencies, local governments, and private organizations to implement projects that will further state and local emergency management objectives. These projects must include, but need not be limited to, projects that will promote public education on disaster preparedness and recovery issues, enhance coordination of relief efforts of statewide private sector organizations, and improve the training and operations capabilities of agencies assigned lead or support responsibilities in the state comprehensive emergency management plan, including the State Fire Marshal's Office for coordinating the Florida fire services. The division shall establish criteria and procedures for competitive allocation of these funds by rule. No more than 5 percent of any award made pursuant to this subparagraph may be used for administrative expenses. This competitive

criteria must give priority consideration to hurricane evacuation shelter retrofit projects.

(b) Notwithstanding the provisions of paragraph (a), and for the 2002-2003 ~~2001-2002~~ fiscal year only, ~~the use up to \$2.2 million of the unencumbered balance of the Emergency Management, Preparedness, and Assistance Trust Fund shall be as provided in the General Appropriations Act utilized to improve, and increase the number of, disaster shelters within the state and improve local disaster preparedness.~~ This paragraph expires on July 1, 2003 ~~2002~~.

Section 34. In order to implement Specific Appropriation 1498 of the 2002-2003 General Appropriations Act, subsection (8) of section 163.3184, Florida Statutes, is amended to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(8) NOTICE OF INTENT.—

(a) Except as provided in s. 163.3187(3), the state land planning agency, upon receipt of a local government's adopted comprehensive plan or plan amendment, shall have 45 days for review and to determine if the plan or plan amendment is in compliance with this act, unless the amendment is the result of a compliance agreement entered into under subsection (16), in which case the time period for review and determination shall be 30 days. If review was not conducted under subsection (6), the agency's determination must be based upon the plan amendment as adopted. If review was conducted under subsection (6), the agency's determination of compliance must be based only upon one or both of the following:

1. The state land planning agency's written comments to the local government pursuant to subsection (6); or

2. Any changes made by the local government to the comprehensive plan or plan amendment as adopted.

(b)1. During the time period provided for in this subsection, the state land planning agency shall issue, through a senior administrator or the secretary, as specified in the agency's procedural rules, a notice of intent to find that the plan or plan amendment is in compliance or not in compliance. A notice of intent shall be issued by publication in the manner provided by this paragraph and by mailing a copy to the local government and to persons who request notice. The required advertisement shall be no less than 2 columns wide by 10 inches long, and the headline in the advertisement shall be in a type no smaller than 12 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper which meets the size and circulation requirements set forth in paragraph (15)(c) and which has been designated in writing by the affected local government at the time of transmittal of the amendment. Publication by the state land planning agency of a notice of intent in the newspaper designated by the local government shall be prima facie evidence of compliance with the publication requirements of this section.

2. For fiscal year 2002-2003 ~~2001-2002~~ only, the provisions of this subparagraph shall supersede the provisions of subparagraph 1. During the time period provided for in this subsection, the state land planning agency shall issue, through a senior administrator or the secretary, as specified in the agency's procedural rules, a notice of intent to find that the plan or plan amendment is in compliance or not in compliance. A notice of intent shall be issued by publication in the manner provided by this paragraph and by mailing a copy to the local government. The advertisement shall be placed in that portion of the newspaper where legal notices appear. The advertisement shall be published in a newspaper that meets the size and circulation requirements set forth in paragraph (15)(c) and that has been designated in writing by the affected local government at the time of transmittal of the amendment. Publication by the state land planning agency of a notice of intent in the newspaper designated by the local government shall be prima facie evidence of compliance with the publication requirements of this section. The state land planning agency shall post a copy of the notice of intent on the agency's Internet site. The agency shall, no later than the date the notice of intent is transmitted to the newspaper, send by regular mail a courtesy informational statement to persons who provide their names and addresses to the local government at the transmittal hearing or at the adoption hearing where the local government has provided the names

and addresses of such persons to the department at the time of transmittal of the adopted amendment. The informational statements shall include the name of the newspaper in which the notice of intent will appear, the approximate date of publication, the ordinance number of the plan or plan amendment, and a statement that affected persons have 21 days after the actual date of publication of the notice to file a petition. This subparagraph expires July 1, 2003 ~~2002~~.

Section 35. In order to implement Specific Appropriation 1760A of the 2002-2003 General Appropriations Act, subsection (6) is added to section 375.041, Florida Statutes, to read:

375.041 Land Acquisition Trust Fund.—

(6) *For the 2002-2003 fiscal year only, the use of funds allocated to the Land Acquisition Trust Fund shall be as provided in the General Appropriations Act. This subsection expires July 1, 2003.*

Section 36. If Council Substitute for House Bill 851, Enrolled, 2002 Regular Session does not become a law, in order to implement Specific Appropriations 1760A and 1768A of the 2002-2003 General Appropriations Act, subsection (7) is added to section 403.709, Florida Statutes, to read:

403.709 Solid Waste Management Trust Fund; use of waste tire fee moneys; waste tire site management.—

(7) *For the 2002-2003 fiscal year only, the use of funds allocated to the Solid Waste Management Trust Fund shall be as provided in the General Appropriations Act. This subsection expires July 1, 2003.*

Section 37. If Council Substitute for House Bill 851, Enrolled, 2002 Regular Session, does not become a law, in order to implement Specific Appropriation 1819 of the 2002-2003 General Appropriations Act, subsection (8) of section 403.7095, Florida Statutes, is amended to read:

403.7095 Solid waste management grant program.—

(8) Notwithstanding the provisions of this section, for fiscal year 2002-2003 ~~2001-2002~~ only, the department shall provide solid waste management and recycling grants only to counties with populations under 100,000. Such grants must be at least 80 percent of the level of funding they received in fiscal year 2000-2001. This subsection expires July 1, 2003 ~~2002~~.

Section 38. If Council Substitute for House Bill 851, Enrolled, 2002 Regular Session, becomes a law, in order to implement Specific Appropriation 1819 of the 2002-2003 General Appropriations Act, subsection (7) is added to section 403.7095, Florida Statutes, as amended by section 8 of that bill, to read:

403.7095 Solid waste management grant program.—

(7) *Notwithstanding the provisions of this section, for fiscal year 2002-2003 only, the department shall provide solid waste management and recycling grants only to counties with populations under 100,000. Such grants must be at least 80 percent of the level of funding they received in fiscal year 2000-2001. This subsection expires July 1, 2003.*

Section 39. In order to implement Specific Appropriation 2075 of the 2002-2003 General Appropriations Act, subsection (10) of section 339.12, Florida Statutes, as created by section 83 of chapter 2002-20, Laws of Florida, is amended to read:

339.12 Aid and contributions by governmental entities for department projects; federal aid.—

(10) *Effective July 1, 2003, any county with a population greater than 50,000 that levies the full 6 cents of local option fuel tax pursuant to ss. 206.41(1)(e) and 206.87(1)(c), or that dedicates 35 percent or more of its discretionary sales surtax, pursuant to s. 212.055, for improvements to the state transportation system or to local projects directly upgrading the state transportation system within the county's boundaries shall receive preference for receipt of any transportation grant for which the county applies. This subsection shall not apply to loans or nonhighway grant programs.*

Section 40. In order to implement Specific Appropriations 2161A and 2161G of the 2002-2003 General Appropriations Act, subsection (5) is

added to section 338.2216, Florida Statutes, as created by chapter 2002-20, Laws of Florida, to read:

338.2216 Florida Turnpike Enterprise; powers and authority.—

(5) *For the 2002-2003 fiscal year only, any toll collector or laborer retained in a position temporarily continued under the authority provided by proviso following Specific Appropriations 2161A and 2161G of the 2002-2003 General Appropriations Act shall remain in the Career Service System. This subsection expires July 1, 2003.*

Section 41. In order to implement proviso language in Specific Appropriation 2235 of the 2002-2003 General Appropriations Act, section 402.3017, Florida Statutes, is amended to read:

402.3017 Teacher Education and Compensation Helps (TEACH) scholarship program.—

(1) The Legislature finds that the level of early child care teacher education and training is a key predictor for determining program quality. The Legislature also finds that low wages for child care workers prevent many from obtaining increased training and education and contribute to high turnover rates. The Legislature therefore intends to help fund a program which links teacher training and education to compensation and commitment to the field of early childhood education.

(2) The Department of Children and Family Services is authorized to contract for the administration of the Teacher Education and Compensation Helps (TEACH) scholarship program, which provides educational scholarships to caregivers and administrators of early childhood programs, family day care homes, and large family child care homes.

(3) The department shall adopt rules as necessary to implement this section.

(4) *For the 2002-2003 fiscal year only, the Agency for Workforce Innovation shall administer this section. This subsection expires July 1, 2003.*

Section 42. In order to implement Specific Appropriation 2352 of the 2002-2003 General Appropriations Act, subsection (2) of section 489.118, Florida Statutes, is amended to read:

489.118 Certification of registered contractors; grandfathering provisions.—The board shall, upon receipt of a completed application and appropriate fee, issue a certificate in the appropriate category to any contractor registered under this part who makes application to the board and can show that he or she meets each of the following requirements:

(2)(a) Has, for that category, passed a written examination that the board finds to be substantially similar to the examination required to be licensed as a certified contractor under this part. For purposes of this subsection, a written, proctored examination such as that produced by the National Assessment Institute, Block and Associates, NAI/Block, Experior Assessments, Professional Testing, Inc., or Assessment Systems, Inc., shall be considered to be substantially similar to the examination required to be licensed as a certified contractor. The board may not impose or make any requirements regarding the nature or content of these cited examinations.

(b) *Has, for the 2002-2003 fiscal year only and in lieu of passing the written examination required by paragraph (a), successfully passed an oral examination that the board finds to be substantially similar to the examination required to be licensed as a certified contractor under this part. This paragraph applies only to applicants who are disabled. This paragraph expires July 1, 2003.*

Applicants wishing to obtain a certificate pursuant to this section must make application by November 1, 2004.

Section 43. *In order to implement Specific Appropriations 2396-2416 of the 2002-2003 General Appropriations Act, the Department of Business and Professional Regulation is authorized to transfer no more than 34 positions and the resources identified in the reengineering issue from Compliance and Enforcement, no more than 12 positions and the resources identified in the reengineering issues from Standards and Licensure, and no more than 20 positions and the resources identified in the reengineering issue from tax collection to begin implementation of the on-line licensing and reengineering project. To ensure current service delivery levels pertaining to regulation, licensing, compliance, enforcement, and tax collection, the department is authorized to retain positions in the*

current programs as necessary to facilitate migration to the new business process. The transfer must be completed prior to June 30, 2003. The Executive Office of the Governor is authorized to establish positions in excess in the current programs to meet these requirements, subject to the provisions of section 216.177, Florida Statutes.

Section 44. In order to implement Specific Appropriations 2418-2433 of the 2002-2003 General Appropriations Act:

(1) Any other provision of law to the contrary notwithstanding, the Division of Florida Land Sales, Condominiums, and Mobile Homes shall be organized with at least three bureaus to be known as the Bureau of Condominiums, the Bureau of Mobile Homes, and the Bureau of Time-shares.

(2) No more than 10 percent of the moneys deposited in the trust fund of the Division of Florida Land Sales, Condominiums, and Mobile Homes shall be transferred to the office of the Secretary of Business and Professional Regulation or to other parts of the Department of Business and Professional Regulation during any fiscal year without the prior specific authorization by the Legislature in the General Appropriations Act.

This section expires July 1, 2003.

Section 45. In order to implement Specific Appropriations 2396-2416 of the 2002-2003 General Appropriations Act:

(1) Any other provision of law to the contrary notwithstanding, the Division of Alcoholic Beverages and Tobacco shall be organized with at least three bureaus to be known as the Bureau of Licensing, the Bureau of Auditing, and the Bureau of Law Enforcement.

(2) No more than 10 percent of the moneys deposited in the trust fund of the Division of Alcoholic Beverages and Tobacco shall be transferred to the office of the Secretary of Business and Professional Regulation or to other parts of the Department of Business and Professional Regulation during any fiscal year without the prior specific authorization by the Legislature in the General Appropriations Act.

This section expires July 1, 2003.

Section 46. In order to implement Specific Appropriations 2776-2782 of the 2002-2003 General Appropriations Act, subsection (4) of section 287.161, Florida Statutes, is amended to read:

287.161 Executive aircraft pool; assignment of aircraft; charge for transportation.—

(4) Notwithstanding the requirements of subsections (2) and (3) and for the 2002-2003 ~~2001-2002~~ fiscal year only, the Department of Management Services shall charge all persons receiving transportation from the executive aircraft pool a rate not less than the mileage allowance fixed by the Legislature for the use of privately owned vehicles. Fees collected for persons traveling by aircraft in the executive aircraft pool shall be deposited into the Bureau of Aircraft Trust Fund and shall be expended for costs incurred to operate the aircraft management activities of the department. It is the intent of the Legislature that the executive aircraft pool be operated on a full cost recovery basis, less available funds. This subsection expires July 1, 2003 ~~2002~~.

Section 47. In order to implement section 8 of the 2002-2003 General Appropriations Act, section 110.1239, Florida Statutes, is amended to read:

110.1239 State group health insurance program funding.—For the 2002-2003 ~~2001-2002~~ fiscal year only, it is the intent of the Legislature that the state group health insurance program be managed, administered, operated, and funded in such a manner as to maximize the protection of state employee health insurance benefits. Inherent in this intent is the recognition that the health insurance liabilities attributable to the benefits offered state employees should be fairly, orderly, and equitably funded. Accordingly:

(1) The division shall determine the level of premiums necessary to fully fund the state group health insurance program for the next fiscal year. Such determination shall be made after each self-insurance revenue estimating conference on health insurance as provided in s. 216.136(1) ~~s. 216.136(1)~~, but not later than December 1 and April 1 of each fiscal year.

(2) The Governor, in the Governor's recommended budget, shall provide premium rates necessary for full funding of the state group health insurance program, and the Legislature shall provide in the General Appropriations Act for a premium level necessary for full funding of the state group health insurance program.

(3) For purposes of funding, any additional appropriation amounts allocated to the state group health insurance program by the Legislature shall be considered as a state contribution and thus an increase in the state premiums.

(4) This section expires July 1, 2003 ~~2002~~.

Section 48. In order to implement section 8 of the 2002-2003 General Appropriations Act, subsection (7) of section 110.12315, Florida Statutes, is amended to read:

110.12315 Prescription drug program.—The state employees' prescription drug program is established. This program shall be administered by the Department of Management Services, according to the terms and conditions of the plan as established by the relevant provisions of the annual General Appropriations Act and implementing legislation, subject to the following conditions:

(7) Notwithstanding the provisions of subsections (1) and (2), under the state employees' prescription drug program copayments must be made as follows:

(a) Effective January 1, 2001:

- 1. For generic drug with card \$7.
- 2. For preferred brand name drug with card \$20.
- 3. For nonpreferred brand name drug with card \$35.
- 4. For generic mail order drug \$10.50.
- 5. For preferred brand name mail order drug \$30.
- 6. For nonpreferred brand name drug \$52.50.

(b) The Department of Management Services shall create a preferred brand name drug list to be used in the administration of the state employees' prescription drug program.

This subsection expires July 1, 2003 ~~2002~~.

Section 49. In order to implement Specific Appropriations 2195-2202 of the 2002-2003 General Appropriations Act, subsection (7) of section 443.036, Florida Statutes, is amended to read:

443.036 Definitions.—As used in this chapter, unless the context clearly requires otherwise:

(7) BASE PERIOD.—

(a) "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year.

(b) For the 2002-2003 fiscal year only, with respect to a benefit year commencing on or after October 1, 2002, if an individual is not monetarily eligible in his or her base period to qualify for benefits, the Agency for Workforce Innovation must designate his or her base period to be the alternative base period. As used in this paragraph, the term "alternative base period" means the last four completed calendar quarters immediately preceding the first day of an individual's benefit year. Wages used in a base period to establish a monetarily eligible benefit year may not be applied to establish monetary eligibility in any succeeding benefit year. If information regarding wages for the calendar quarter or quarters immediately preceding the benefit year has not been input into the agency's mainframe database from the regular quarterly reports of wage information or is otherwise unavailable, the Agency for Workforce Innovation shall request such information from the employer. An employer must provide the requested wage information within 10 days after receiving a request from the Agency for Workforce Innovation. An employer who fails to provide the requested wage information within the required time is subject to the penalty for delinquent reports in s. 443.141(1)(b). This paragraph expires July 1, 2003.

(c) For the 2002-2003 fiscal year only, for monetary determinations based upon the alternative base period under paragraph (b), if the Agency for Workforce Innovation is unable to access the wage information through its mainframe database, the agency may base the determination of eligibility for benefits on an affidavit submitted by the individual with respect to wages for those calendar quarters. The individual must furnish payroll information, if available, in support of the affidavit. A determination of benefits based upon an alternative base period shall be adjusted when the quarterly report of wage information from the employer is received, if that information causes a change in the determination. This paragraph expires July 1, 2003.

Section 50. A section of this act that implements a specific appropriation or specifically identified proviso language in the 2002-2003 General Appropriations Act is void if the specific appropriation or specifically identified proviso language is vetoed. A section of this act that implements more than one specific appropriation or more than one portion of specifically identified proviso language in the 2002-2003 General Appropriations Act is void if all the specific appropriations or portions of specifically identified proviso language are vetoed.

Section 51. The agency performance measures and standards in the document entitled "Agency Performance Measures and Standards for Fiscal Year 2002-2003" dated April 30, 2002, and filed with the Secretary of the Senate are incorporated by reference. Such performance measures and standards are directly linked to the appropriations made in the General Appropriations Act for fiscal year 2002-2003, as required by the Government Performance and Accountability Act of 1994. State agencies are directed to revise their Long-Range Program Plans required under section 216.013, Florida Statutes, to be consistent with these performance measures and standards.

Section 52. It is the policy of the state that funds provided in the 2002-2003 General Appropriations Act may not be expended for contracts in excess of \$5,000 for the radio or broadcast television noncommercial sustained announcements or for public-service announcements unless specifically approved by the Legislative Budget Commission.

Section 53. If any law that is amended by this act was also amended by a law enacted at the 2002 Regular Session of the Legislature, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect should be given to each if that is possible.

Section 54. Except as otherwise specifically provided in this act, this act shall take effect July 1, 2002; and if this act fails to become a law until after that date, it shall take effect upon becoming a law and shall operate retroactively to July 1, 2002.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act implementing the 2002-2003 General Appropriations Act; prescribing powers and duties of the Secretary of Education with respect to reorganizing the Department of Education; requiring the Department of Education to maximize federal indirect cost allowed on federal grants; requiring appropriation for expenditure of funds received from indirect cost allowance; repealing s. 229.8065, F.S., relating to expenditures for the Knott Data Center and projects, contracts, and grant programs; amending s. 229.085, F.S.; removing an exemption for personnel employed by projects funded by contracts and grants; providing legislative intent; amending s. 240.35, F.S.; increasing the percentage of funds from the financial aid fee to be used for need-based financial aid; revising provisions relating to an annual report; providing accounting requirements for the state universities for the 2002-2003 fiscal year; amending s. 216.292, F.S.; authorizing the Department of Children and Family Services to transfer funding between certain services; amending s. 215.20, F.S.; appropriating the service charges on certain income and trust funds to the General Revenue Fund; amending s. 215.22, F.S.; exempting certain income and trust funds from such appropriation; amending s. 18.10, F.S.; appropriating certain investment earnings to the General Revenue Fund; amending s. 18.125, F.S.; revising investment requirements for certain trust funds; amending ss. 14.2015, 240.4075, 385.207, 860.158, and 938.01, F.S., to conform; providing for future repeal or expiration of various provisions; amending s. 295.182, F.S.; authorizing contributions to the Florida World War II Veterans Memorial Matching Trust Fund from public bodies; amending s. 216.262, F.S.; providing for additional positions to operate additional

prison bed capacity under certain circumstances; authorizing the Correctional Privatization Commission to make certain expenditures to defray costs incurred by a municipality or county as a result of opening or operating a facility under the authority of the commission or the Department of Juvenile Justice; amending s. 16.555, F.S.; authorizing use of moneys in the Crime Stoppers Trust Fund to pay for salaries and benefits and other expenses of the Department of Legal Affairs; amending s. 860.158, F.S.; providing directives for the use of moneys in the Florida Motor Vehicle Theft Prevention Trust Fund; amending s. 25.402, F.S.; revising uses of the County Article V Trust Fund; amending s. 581.1845, F.S.; revising eligibility for compensation under the citrus canker eradication program; prescribing the amount of compensation for trees taken in canker eradication programs; amending s. 252.373, F.S.; providing for use of the Emergency Management, Preparedness, and Assistance Trust Fund; amending s. 163.3184, F.S.; prescribing standards for the state land planning agency to use when issuing notice of intent; amending s. 375.041, F.S.; providing for use of moneys in the Land Acquisition Trust Fund; amending s. 403.709, F.S.; providing for use of moneys in the Solid Waste Management Trust Fund; amending s. 403.7095, F.S.; prescribing conditions on solid waste management and recycling grants; amending s. 339.12, F.S.; delaying an effective date; amending s. 338.2216, F.S.; providing that certain positions under the Florida Turnpike Enterprise remain in the Career Service System; amending s. 287.161, F.S.; amending s. 402.3017, F.S.; providing for administration of the Teacher Education and Compensation Helps scholarship program; amending s. 489.118, F.S.; providing for issuance of certification to certain applicant contractors upon successful completion of an oral examination; authorizing the Department of Business and Professional Regulation to transfer positions and resources; providing for the organization of the Division of Florida Land Sales, Condominiums, and Mobile Homes and the Division of Alcoholic Beverages and Tobacco; prohibiting the transfer of certain funds without prior authorization of the Legislature; requiring the Department of Management Services to charge all persons receiving transportation from the executive aircraft pool a specified rate; amending s. 110.1239, F.S.; providing requirements for the funding of the state group health insurance program; amending s. 110.12315, F.S.; providing copayment requirements for the state employees' prescription drug program; amending s. 443.036, F.S.; providing a definition and an application of an alternative base period for unemployment compensation; providing requirements and limitations; requiring employers to respond to requests for information by the Agency for Workforce Innovation; providing a penalty for failure to respond; providing for adjustments in determinations of monetary eligibility; providing effect of veto of specific appropriation or proviso to which implementing language refers; incorporating by reference specified performance measures and standards directly linked to the appropriations made in the 2002-2003 General Appropriations Act, as required by the Government Performance and Accountability Act of 1994; limiting expenditures for noncommercial sustained announcements and public-service announcements; providing for construction of laws enacted at the 2002 Regular Session in relation to this act; providing effective dates.

On motion by Senator Carlton, by two-thirds vote **HB 29-E** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Futch	Posey
Brown-Waite	Garcia	Pruitt
Burt	Geller	Sanderson
Campbell	Jones	Saunders
Carlton	King	Sebesta
Clary	Klein	Silver
Constantine	Latvala	Smith
Cowin	Laurent	Sullivan
Crist	Lawson	Villalobos
Dawson	Lee	Wasserman Schultz
Diaz de la Portilla	Miller	Webster
Dyer	Peaden	Wise

Nays—2

Meek Rossin

Vote after roll call:

Yea—Mitchell

MOTIONS

On motion by Senator Carlton, the Senate acceded to the request of the House to include **HB 29-E** as part of the Conference Committee on **HB 27-E**.

On motion by Senator Carlton, the rules were waived and staff of the Committee on Appropriations was instructed to make title amendments and technical changes in **HB 27-E** and **HB 29-E** as necessary and the rules were also waived to allow the Senate Appropriations Conferees the latitude to deal with additional issues which may develop in conference.

Jones	Miller	Sebesta
King	Mitchell	Silver
Klein	Peaden	Smith
Latvala	Posey	Sullivan
Laurent	Pruitt	Villalobos
Lawson	Rossin	Wasserman Schultz
Lee	Sanderson	Webster
Meek	Saunders	Wise
Nays—None		

SENATOR JONES PRESIDING

On motion by Senator Clary, by two-thirds vote **HB 57-E** was withdrawn from the Committee on Appropriations.

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

HB 57-E—A bill to be entitled An act relating to trust funds; creating the Workers' Compensation Administration Trust Fund within the Department of Business and Professional Regulation; providing for purposes and sources of funds; providing for annual carryforward of fund balances; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—a companion measure, was substituted for **SB 8-E** and by two-thirds vote read the second time by title. On motion by Senator Clary, by two-thirds vote **HB 57-E** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39

Brown-Waite	Geller	Posey
Burt	Holzendorf	Pruitt
Campbell	Jones	Rossin
Carlton	King	Sanderson
Clary	Klein	Saunders
Constantine	Latvala	Sebesta
Cowin	Laurent	Silver
Crist	Lawson	Smith
Dawson	Lee	Sullivan
Diaz de la Portilla	Meek	Villalobos
Dyer	Miller	Wasserman Schultz
Futch	Mitchell	Webster
Garcia	Peaden	Wise

Nays—None

On motion by Senator Clary, by two-thirds vote **HB 55-E** was withdrawn from the Committee on Appropriations.

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

HB 55-E—A bill to be entitled An act relating to trust funds; creating the Workers' Compensation Administration Trust Fund within the Department of Education; providing for purposes and sources of funds; providing for annual carryforward of fund balances; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—a companion measure, was substituted for **SB 10-E** and by two-thirds vote read the second time by title. On motion by Senator Clary, by two-thirds vote **HB 55-E** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39

Brown-Waite	Constantine	Dyer
Burt	Cowin	Futch
Campbell	Crist	Garcia
Carlton	Dawson	Geller
Clary	Diaz de la Portilla	Holzendorf

On motion by Senator Silver, by two-thirds vote **HB 53-E** was withdrawn from the Committee on Appropriations.

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

HB 53-E—A bill to be entitled An act relating to the Department of Children and Family Services; amending s. 216.181, F.S.; providing for the use of funds by the department; amending s. 394.74, F.S.; prescribing a specified contract requirement for local substance abuse and mental health programs; amending s. 394.908, F.S.; revising provisions governing substance abuse and mental health funding equity; amending s. 414.035, F.S.; revising provisions authorizing expenditures by the department for assistance for needy families; amending s. 409.16745, F.S.; abrogating the repeal of the community partnership matching grant program; authorizing the sale of specified hospital complexes and providing for the use of the proceeds; providing an effective date.

—a companion measure, was substituted for **SB 36-E** and by two-thirds vote read the second time by title.

Senator Silver moved the following amendment which was adopted:

Amendment 1 (505788)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (16) of section 216.181, Florida Statutes, is amended to read:

216.181 Approved budgets for operations and fixed capital outlay.—
(16)

(c) *Unless specifically prohibited in the General Appropriations Act, funds appropriated to the Department of Children and Family Services and the Department of Health may be advanced for those contracted services that were approved for advancement by the Comptroller in fiscal year 1993-1994, including those services contracted on a fixed-price or unit-cost basis. For the 2001-2002 fiscal year only, funds appropriated to the Department of Children and Family Services in Specific Appropriations 302-466 and the Department of Health in Specific Appropriations 503-637 of the 2001-2002 General Appropriations Act may be advanced, unless specifically prohibited in such General Appropriations Act, for those contracted services that were approved for advancement by the Comptroller in fiscal year 1993-1994, including those services contracted on a fixed-price or unit-cost basis. This paragraph expires July 1, 2002.*

Section 2. Subsection (3) of section 394.74, Florida Statutes, is amended to read:

394.74 Contracts for provision of local substance abuse and mental health programs.—

(3) Contracts shall include, but are not limited to:

(a) A provision that, within the limits of available resources, substance abuse and mental health crisis services, as defined in s. 394.67(4), shall be available to any individual residing or employed within the service area, regardless of ability to pay for such services, current or past health condition, or any other factor;

(b) A provision that such services be available with priority of attention being given to individuals who exhibit symptoms of chronic or acute substance abuse or mental illness and who are unable to pay the cost of receiving such services;

(c) A provision that every reasonable effort to collect appropriate reimbursement for the cost of providing substance abuse and mental

health services to persons able to pay for services, including first-party payments and third-party payments, shall be made by facilities providing services pursuant to this act;

(d) A program description and line-item operating budget by program service component for substance abuse and mental health services, provided the entire proposed operating budget for the service provider will be displayed; ~~and~~

(e) ~~A provision that client demographic, service, and outcome information required for the department's Mental Health and Substance Abuse Data System be submitted to the department by a date specified in the contract. The department may not pay the provider unless the required information has been submitted by the specified date; and~~

(f)(e) A requirement that the contractor must conform to department rules and the priorities established thereunder.

Section 3. Subsection (8) of section 394.908, Florida Statutes, is amended to read:

394.908 Substance abuse and mental health funding equity; distribution of appropriations.—In recognition of the historical inequity among service districts of the former Department of Health and Rehabilitative Services in the funding of substance abuse and mental health services, and in order to rectify this inequity and provide for equitable funding in the future throughout the state, the following funding process shall be adhered to:

(8) For fiscal year ~~2002-2003~~ ~~2001-2002~~ only, and notwithstanding the provisions of this section, all new funds received in excess of fiscal year ~~2001-2002~~ ~~recurring 1998-1999~~ appropriations shall be allocated in accordance with the provisions of the General Appropriations Act; ~~however, except as specified in this subsection, to the G. Pierce Wood Memorial Hospital catchment area or other districts or counties identified in the 2001-2002 General Appropriations Act. The Department of Children and Family Services is authorized to develop an alternative allocation methodology based on national prevalence data for persons with severe and persistent mental illness for use in the distribution of new funds to the G. Pierce Wood Memorial Hospital catchment area.~~ no district shall receive an allocation of recurring funds less than its initial approved operating budget, plus any distributions of lump sum appropriations, for fiscal year ~~2001-2002~~ ~~1998-1999~~, except for adjustments needed to ~~implement the SunCoast Region. This subsection expires July 1, 2003~~ ~~2002~~.

Section 4. Section 414.035, Florida Statutes, is amended to read:

414.035 Authorized expenditures.—Any expenditures from the Temporary Assistance for Needy Families block grant, ~~or from other state funds that the secretary or his or her designee determines meets the maintenance-of-effort requirement for the block grant, must~~ shall be expended in accordance with the requirements and limitations of part A of Title IV of the Social Security Act, as amended, or any other applicable federal requirement or limitation. Prior to any expenditure of such funds, the secretary of ~~Children and Family Services~~, or his or her designee, shall certify that controls are in place to ensure such funds are expended in accordance with the requirements and limitations of federal law and that any reporting requirements of federal law are met. It shall be the responsibility of any entity to which such funds are appropriated to obtain the required certification prior to any expenditure of funds.

Section 5. Section 409.16745, Florida Statutes, is amended to read:

409.16745 Community partnership matching grant program.—It is the intent of the Legislature to improve services and local participation in community-based care initiatives by fostering community support and providing enhanced prevention and in-home services, thereby reducing the risk otherwise faced by lead agencies. There is established a community partnership matching grant program to be operated by the Department of Children and Family Services for the purpose of encouraging local participation in community-based care for child welfare. Any children's services council or other local government entity that makes a financial commitment to a community-based care lead agency is eligible for a grant upon proof that the children's services council or local government entity has provided the selected lead agency at least \$825,000 in start up funds, from any local resources otherwise available to it. The total amount of local contribution may be matched on a two-for-one basis up to a maximum amount of \$2 million per council. Awarded

matching grant funds may be used for any prevention or in-home services provided by the children's services council or other local government entity that meets temporary-assistance-for-needy-families' eligibility requirements and can be reasonably expected to reduce the number of children entering the child welfare system. To ensure necessary flexibility for the development, start up, and ongoing operation of community-based care initiatives, the notice period required for any budget action authorized by the provisions of s. 20.19(5)(b), is waived for the family safety program; however, the Department of Children and Family Services must provide copies of all such actions to the Executive Office of the Governor and Legislature within 72 hours of their occurrence. Funding available for the matching grant program is subject to legislative appropriation of nonrecurring temporary-assistance-for-needy-families funds provided for the purpose. ~~This section expires July 1, 2002.~~

Section 6. *Upon approval of the Board of Trustees of the Internal Improvement Trust Fund, the Division of State Lands of the Department of Environmental Protection may sell the former W.T. Edwards Hospital complex located in Hillsborough County and the remaining Sunland complex located in Leon County, currently under lease to the Department of Children and Family Services. Notwithstanding chapter 253, Florida Statutes, the proceeds from the sale must be deposited into the Department of Children and Family Services' Administrative Trust Fund and, subject to legislative appropriation, must be used to construct, renovate, equip, maintain, and improve the department's facilities.*

Section 7. This act shall take effect July 1, 2002.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the Department of Children and Family Services; amending s. 216.181, F.S.; providing for the use of funds by the department; amending s. 394.74, F.S.; prescribing a specified contract requirement; amending s. 394.908, F.S.; revising provisions governing substance abuse and mental health funding equity; amending s. 414.035, F.S.; revising provisions authorizing expenditures by the department; amending s. 409.16745, F.S.; abrogating the repeal of the community partnership matching grant program; authorizing the sale of certain facilities and providing for the use of the proceeds; providing an effective date.

On motion by Senator Silver, by two-thirds vote **HB 53-E** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Brown-Waite	Geller	Posey
Burt	Holzendorf	Pruitt
Campbell	Jones	Rossin
Carlton	King	Sanderson
Clary	Klein	Saunders
Constantine	Latvala	Sebesta
Cowin	Laurent	Silver
Crist	Lawson	Smith
Dawson	Lee	Sullivan
Diaz de la Portilla	Meek	Villalobos
Dyer	Miller	Wasserman Schultz
Futch	Mitchell	Webster
Garcia	Peaden	Wise

Nays—None

MOTION

On motion by Senator Silver, the Senate acceded to the request of the House to include **HB 53-E** as part of the Conference Committee on **HB 27-E**.

SB 38-E—A bill to be entitled An act relating to health care; amending s. 16.59, F.S.; specifying additional requirements for the Medicaid Fraud Control Unit of the Department of Legal Affairs and the Medicaid program integrity program; amending s. 112.3187, F.S.; extending whistleblower protection to employees of Medicaid providers reporting Medicaid fraud or abuse; amending s. 400.179, F.S.; providing exceptions to bond

requirements; creating s. 408.831, F.S.; allowing the Agency for Health Care Administration to take action against a licensee in certain circumstances; amending s. 409.8177, F.S.; requiring the Agency for Health Care Administration to contract for an evaluation of the Florida Kidcare program; amending s. 409.902, F.S.; prescribing an additional condition on Medicaid eligibility; amending s. 409.904, F.S.; revising provisions governing optional payments for medical assistance and related services; amending s. 409.905, F.S.; providing additional criteria for the agency to adjust a hospital's inpatient per diem rate for Medicaid; amending s. 409.906, F.S.; authorizing the agency to make payments for specified services which are optional under Title XIX of the Social Security Act; amending s. 409.9065, F.S.; revising standards for pharmaceutical expense assistance; amending s. 409.907, F.S.; prescribing additional requirements with respect to provider enrollment; requiring that the Agency for Health Care Administration deny a provider's application under certain circumstances; amending s. 409.908, F.S.; providing additional requirements for cost-reporting; amending s. 409.910, F.S.; revising requirements for the distribution of funds recovered from third parties that are liable for making payments for medical care furnished to Medicaid recipients and in the case of recoveries of overpayments; amending s. 409.912, F.S.; revising provisions governing the purchase of goods and services for Medicaid recipients; providing for quarterly reports to the Governor and presiding officers of the Legislature; amending s. 409.9116, F.S.; revising the disproportionate share/financial assistance program for rural hospitals; amending s. 409.9122, F.S.; revising provisions governing mandatory Medicaid managed care enrollment; amending s. 409.913, F.S.; requiring that the agency and Medicaid Fraud Control Unit annually submit a report to the Legislature; defining the term "complaint"; specifying additional requirements for the Medicaid program integrity program and the Medicaid Fraud Control Unit of the Department of Legal Affairs; requiring imposition of sanctions or disincentives, except under certain circumstances; providing additional sanctions and disincentives; providing additional grounds under which the agency may terminate a provider's participation in the Medicaid program; providing additional requirements for administrative hearings; providing additional grounds for withholding payments to a provider; authorizing the agency and the Medicaid Fraud Control Unit to review certain records; requiring review by the Attorney General of certain settlements; requiring review by the Auditor General of certain cost reports; requiring that the agency refund to a county any recovery of Medicaid overpayment received for hospital inpatient and nursing home services; providing a formula for calculating the credit; amending s. 409.920, F.S.; providing additional duties of the Medicaid Fraud Control Unit; amending s. 499.012, F.S.; redefining the term "wholesale distribution" with respect to regulation of distribution of prescription drugs; requiring the Agency for Health Care Administration to conduct a study of health care services provided to medically fragile or medical-technology-dependent children; requiring the Agency for Health Care Administration to conduct a pilot program for a subacute pediatric transitional care center; requiring background screening of center personnel; requiring the agency to amend the Medicaid state plan and seek federal waivers as necessary; requiring the center to have an advisory board; providing for membership on the advisory board; providing requirements for the admission, transfer, and discharge of a child to the center; requiring the agency to submit certain reports to the Legislature; providing guidelines for the agency to distribute disproportionate share funds during the 2002-2003 fiscal year; authorizing the Agency for Health Care Administration to conduct a pilot project on overnight stays in an ambulatory surgical center; amending s. 624.91, F.S.; revising duties of the Florida Healthy Kids Corporation with respect to annual determination of participation in the Healthy Kids Program; prescribing duties of the corporation in establishing local match requirements; revising the composition of the board of directors; requiring recommendations to the Legislature; repealing s. 414.41(5), F.S., relating to interest imposed upon the recovery amount of medical assistance overpayments; providing for construction of laws enacted at the 2002 Regular Session in relation to this act; providing effective dates.

—was read the second time by title.

Senator Saunders moved the following amendments which were adopted:

Amendment 1 (885040)—On page 9, lines 22-30, delete those lines and insert: *Services, not subject to further appeal, unless a repayment plan is approved by the agency; or*

(b) *For failure to comply with any repayment plan.*

(Redesignate subsequent subsection.)

Amendment 2 (981030)—On page 23, line 7, after "*Services,*" insert: *not subject to further appeal,*

Amendment 3 (803392)—On page 65, lines 25-28, delete those lines and insert: *order, not subject to further appeal, within 35 days after the date of the final order, unless the provider and the agency have entered into a repayment agreement.*

Amendment 4 (253478)—On page 66, lines 22-25, delete those lines and insert:

(32) *With respect to recoveries of Medicaid*

Amendment 5 (271034)—On page 91, lines 14-19, delete those lines and redesignate subsequent sections.

Pending further consideration of **SB 38-E** as amended, on motion by Senator Silver, by two-thirds vote **HB 59-E** was withdrawn from the Committee on Appropriations.

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

HB 59-E—A bill to be entitled An act relating to health care; amending s. 112.3187, F.S.; revising procedures and requirements relating to whistle-blower protection for reporting Medicaid fraud or abuse; amending s. 400.141, F.S.; requiring licensed nursing home facilities to maintain general and professional liability insurance coverage; requiring facilities to submit information to the Agency for Health Care Administration which shall provide reports regarding facilities' litigation, complaints, and deficiencies; amending s. 400.147, F.S.; revising reporting requirements under facility internal risk management and quality assurance programs; providing for funding to expedite the availability of nursing home liability insurance; amending s. 400.179, F.S.; providing an alternative to certain bond requirements for protection against nursing home Medicaid overpayments; providing for review and rulemaking authority of the Agency for Health Care Administration; providing for future repeal; requiring a report; creating s. 408.831, F.S.; authorizing the Agency for Health Care Administration to take action against a regulated entity under certain circumstances; reenacting s. 409.8132(4), F.S., to incorporate amendments to ss. 409.902, 409.907, 409.908, and 409.913, F.S., in references thereto; amending s. 409.8177, F.S.; requiring the agency to contract for evaluation of the Florida Kidcare program; amending s. 409.902, F.S.; requiring consent for release of medical records to the agency and the Medicaid Fraud Control Unit as a condition of Medicaid eligibility; amending s. 409.903, F.S.; revising eligibility for certain Medicaid mandatory medical assistance; amending s. 409.904, F.S.; revising eligibility standards for certain Medicaid optional medical assistance; amending s. 409.9065, F.S.; revising eligibility standards for the pharmaceutical expense assistance program; amending s. 409.907, F.S.; prescribing additional requirements with respect to Medicaid provider enrollment; requiring the agency to deny a provider's application under certain circumstances; amending s. 409.908, F.S.; requiring retroactive calculation of cost report if requirements for cost reporting are not met; revising provisions relating to rate adjustments to offset the cost of general and professional liability insurance for nursing homes; extending authorization for special Medicaid payments to qualified providers; providing for intergovernmental transfer of payments; amending s. 409.911, F.S.; expanding application of definitions; amending s. 409.9116, F.S.; revising applicability of the disproportionate share/financial assistance program for rural hospitals; amending s. 409.91195, F.S.; granting interested parties opportunity to present public testimony before the Medicaid Pharmaceutical and Therapeutics Committee; amending s. 409.912, F.S.; providing requirements for contracts for Medicaid behavioral health care services; amending s. 409.9122, F.S.; revising procedures relating to assignment of a Medicaid recipient to a managed care plan or MediPass provider; granting agency discretion to renew contracts; amending s. 409.913, F.S.; requiring the agency and the Medicaid Fraud Control Unit to annually submit a joint report to the Legislature; defining the term "complaint" with respect to Medicaid fraud or abuse; specifying additional requirements for the Medicaid program integrity program and the Medicaid Fraud Control Unit; providing additional sanctions and disincentives which may be imposed; providing additional grounds for termination of a provider's participation in the Medicaid program; providing additional requirements for administrative hearings; providing additional grounds for withholding payments to a provider; authorizing the agency and the Medicaid Fraud

Control Unit to review certain records; amending s. 409.920, F.S.; providing additional duties of the Attorney General with respect to Medicaid fraud control; amending s. 624.91, F.S.; revising duties of the Florida Healthy Kids Corporation with respect to annual determination of participation in the Healthy Kids program; prescribing duties of the corporation in establishing local match requirements; revising composition of the board of directors; amending s. 383.19, F.S.; revising limitation on the establishment of regional perinatal intensive care centers; amending s. 393.063, F.S.; revising definition of the term "intermediate care facility for the developmentally disabled" for purposes of ch. 393, F.S.; amending ss. 400.965 and 400.968, F.S.; providing penalties for violation of pt. XI of ch. 400, F.S., relating to intermediate care facilities for developmentally disabled persons; requiring the Department of Children and Family Services to develop and implement a comprehensive redesign of the home and community-based services delivery system for persons with developmental disabilities; restricting certain release of funds; providing an implementation schedule; requiring the Agency for Health Care Administration to conduct a study of health care services provided to children who are medically fragile or dependent on medical technology; requiring the agency to conduct a pilot program for a sub-acute pediatric transitional care center; requiring background screening of center personnel; requiring the agency to amend the Medicaid state plan or seek federal waivers as necessary; requiring the center to have an advisory board; providing for membership and duties of the advisory board; providing requirements for the admission, transfer, and discharge of a child to the center; requiring the agency to submit certain reports to the Legislature; requiring the agency to make recommendations to the Legislature regarding limitations on certain Medicaid provider reimbursements; providing guidelines for the agency regarding distribution of disproportionate share funds during the 2002-2003 fiscal year; directing the Office of Program Policy Analysis and Government Accountability to perform a study of county contributions to Medicaid nursing home costs; requiring a report and recommendations; repealing s. 1, ch. 2001-377, Laws of Florida, relating to eligibility of specified persons for certain optional medical assistance; providing severability; providing effective dates.

—a companion measure, was substituted for **SB 38-E** as amended and by two-thirds vote read the second time by title.

Senator Silver moved the following amendment which was adopted:

Amendment 1 (934922)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 16.59, Florida Statutes, is amended to read:

16.59 Medicaid fraud control.—There is created in the Department of Legal Affairs the Medicaid Fraud Control Unit, which may investigate all violations of s. 409.920 and any criminal violations discovered during the course of those investigations. The Medicaid Fraud Control Unit may refer any criminal violation so uncovered to the appropriate prosecuting authority. *Offices of the Medicaid Fraud Control Unit and the offices of the Agency for Health Care Administration Medicaid program integrity program shall, to the extent possible, be collocated. The agency and the Department of Legal Affairs shall conduct joint training and other joint activities designed to increase communication and coordination in recovering overpayments.*

Section 2. Subsections (3), (5), and (7) of section 112.3187, Florida Statutes, are amended to read:

112.3187 Adverse action against employee for disclosing information of specified nature prohibited; employee remedy and relief.—

(3) DEFINITIONS.—As used in this act, unless otherwise specified, the following words or terms shall have the meanings indicated:

(a) "Agency" means any state, regional, county, local, or municipal government entity, whether executive, judicial, or legislative; any official, officer, department, division, bureau, commission, authority, or political subdivision therein; or any public school, community college, or state university.

(b) "Employee" means a person who performs services for, and under the control and direction of, or contracts with, an agency or independent contractor for wages or other remuneration.

(c) "Adverse personnel action" means the discharge, suspension, transfer, or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse action taken against an employee within the terms and conditions of employment by an agency or independent contractor.

(d) "Independent contractor" means a person, other than an agency, engaged in any business and who enters into a contract or *provider agreement* with an agency.

(e) "Gross mismanagement" means a continuous pattern of managerial abuses, wrongful or arbitrary and capricious actions, or fraudulent or criminal conduct which may have a substantial adverse economic impact.

(5) NATURE OF INFORMATION DISCLOSED.—The information disclosed under this section must include:

(a) Any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by an employee or agent of an agency or independent contractor which creates and presents a substantial and specific danger to the public's health, safety, or welfare.

(b) Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, *suspected or actual Medicaid fraud or abuse*, or gross neglect of duty committed by an employee or agent of an agency or independent contractor.

(7) EMPLOYEES AND PERSONS PROTECTED.—This section protects employees and persons who disclose information on their own initiative in a written and signed complaint; who are requested to participate in an investigation, hearing, or other inquiry conducted by any agency or federal government entity; who refuse to participate in any adverse action prohibited by this section; or who initiate a complaint through the whistle-blower's hotline or *the hotline of the Medicaid Fraud Control Unit of the Department of Legal Affairs*; or employees who file any written complaint to their supervisory officials or employees who submit a complaint to the Chief Inspector General in the Executive Office of the Governor, to the employee designated as agency inspector general under s. 112.3189(1), or to the Florida Commission on Human Relations. The provisions of this section may not be used by a person while he or she is under the care, custody, or control of the state correctional system or, after release from the care, custody, or control of the state correctional system, with respect to circumstances that occurred during any period of incarceration. No remedy or other protection under ss. 112.3187-112.31895 applies to any person who has committed or intentionally participated in committing the violation or suspected violation for which protection under ss. 112.3187-112.31895 is being sought.

Section 3. Paragraph (d) of subsection (5) of section 400.179, Florida Statutes, is amended to read:

400.179 Sale or transfer of ownership of a nursing facility; liability for Medicaid underpayments and overpayments.—

(5) Because any transfer of a nursing facility may expose the fact that Medicaid may have underpaid or overpaid the transferor, and because in most instances, any such underpayment or overpayment can only be determined following a formal field audit, the liabilities for any such underpayments or overpayments shall be as follows:

(d) Where the transfer involves a facility that has been leased by the transferor:

1. The transferee shall, as a condition to being issued a license by the agency, acquire, maintain, and provide proof to the agency of a bond with a term of 30 months, renewable annually, in an amount not less than the total of 3 months Medicaid payments to the facility computed on the basis of the preceding 12-month average Medicaid payments to the facility.

2. The leasehold operator may meet the bond requirement through other arrangements acceptable to the department.

3. All existing nursing facility licensees, operating the facility as a leasehold, shall acquire, maintain, and provide proof to the agency of the 30-month bond required in subparagraph 1., above, on and after July 1, 1993, for each license renewal.

4. It shall be the responsibility of all nursing facility operators, operating the facility as a leasehold, to renew the 30-month bond and to provide proof of such renewal to the agency annually at the time of application for license renewal.

5. Any failure of the nursing facility operator to acquire, maintain, renew annually, or provide proof to the agency shall be grounds for the agency to deny, cancel, revoke, or suspend the facility license to operate such facility and to take any further action, including, but not limited to, enjoining the facility, asserting a moratorium, or applying for a receiver, deemed necessary to ensure compliance with this section and to safeguard and protect the health, safety, and welfare of the facility's residents.

6. *Notwithstanding other provisions of this section, a lease agreement required as a condition of bond financing or refinancing under s. 154.213 by a health facilities authority or under s. 159.30 by a county or municipality is not considered as a leasehold and therefore, is not subject to the bond requirement of this paragraph.*

Section 4. Section 408.831, Florida Statutes, is created to read:

408.831 Denial, suspension, revocation of a license, registration, certificate or application.—

(1) *In addition to any other remedies provided by law, the agency may deny each application or suspend or revoke each license, registration, or certificate of entities regulated or licensed by it:*

(a) *If the applicant, licensee, registrant, or certificateholder, or, in the case of a corporation, partnership, or other business entity, if any officer, director, agent, or managing employee of that business entity or any affiliated person, partner, or shareholder having an ownership interest equal to 5 percent or greater in that business entity, has failed to pay all outstanding fines, liens, or overpayments assessed by final order of the agency or final order of the Centers for Medicare and Medicaid Services, not subject to further appeal, unless a repayment plan is approved by the agency; or*

(b) *For failure to comply with any repayment plan.*

(2) *This section provides standards of enforcement applicable to all entities licensed or regulated by the Agency for Health Care Administration. This section controls over any conflicting provisions of chapters 39, 381, 383, 390, 391, 393, 394, 395, 400, 408, 468, 483, and 641 or rules adopted pursuant to those chapters.*

Section 5. Section 409.8177, Florida Statutes, is amended to read:

409.8177 Program evaluation.—

(1) The agency, in consultation with the Department of Health, the Department of Children and Family Services, and the Florida Healthy Kids Corporation, shall contract for an evaluation of the Florida Kidcare program and shall by January 1 of each year submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report of the Florida Kidcare program. In addition to the items specified under s. 2108 of Title XXI of the Social Security Act, the report shall include an assessment of crowd-out and access to health care, as well as the following:

(a)(1) An assessment of the operation of the program, including the progress made in reducing the number of uncovered low-income children.

(b)(2) An assessment of the effectiveness in increasing the number of children with creditable health coverage, including an assessment of the impact of outreach.

(c)(3) The characteristics of the children and families assisted under the program, including ages of the children, family income, and access to or coverage by other health insurance prior to the program and after disenrollment from the program.

(d)(4) The quality of health coverage provided, including the types of benefits provided.

(e)(5) The amount and level, including payment of part or all of any premium, of assistance provided.

(f)(6) The average length of coverage of a child under the program.

(g)(7) The program's choice of health benefits coverage and other methods used for providing child health assistance.

(h)(8) The sources of nonfederal funding used in the program.

(i)(9) An assessment of the effectiveness of Medikids, Children's Medical Services network, and other public and private programs in the state in increasing the availability of affordable quality health insurance and health care for children.

(j)(10) A review and assessment of state activities to coordinate the program with other public and private programs.

(k)(11) An analysis of changes and trends in the state that affect the provision of health insurance and health care to children.

(l)(12) A description of any plans the state has for improving the availability of health insurance and health care for children.

(m)(13) Recommendations for improving the program.

(n)(14) Other studies as necessary.

(2) The agency shall also submit each month to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report of enrollment for each program component of the Florida Kidcare program.

Section 6. Section 409.902, Florida Statutes, is amended to read:

409.902 Designated single state agency; payment requirements; program title; release of medical records.—The Agency for Health Care Administration is designated as the single state agency authorized to make payments for medical assistance and related services under Title XIX of the Social Security Act. These payments shall be made, subject to any limitations or directions provided for in the General Appropriations Act, only for services included in the program, shall be made only on behalf of eligible individuals, and shall be made only to qualified providers in accordance with federal requirements for Title XIX of the Social Security Act and the provisions of state law. This program of medical assistance is designated the "Medicaid program." The Department of Children and Family Services is responsible for Medicaid eligibility determinations, including, but not limited to, policy, rules, and the agreement with the Social Security Administration for Medicaid eligibility determinations for Supplemental Security Income recipients, as well as the actual determination of eligibility. *As a condition of Medicaid eligibility, the Agency for Health Care Administration and the Department of Children and Family Services shall ensure that each recipient of Medicaid consents to the release of her or his medical records to the Agency for Health Care Administration and the Medicaid Fraud Control Unit of the Department of Legal Affairs.*

Section 7. Effective July 1, 2002, subsection (2) of section 409.904, Florida Statutes, as amended by section 2 of chapter 2001-377, Laws of Florida, is amended to read:

409.904 Optional payments for eligible persons.—The agency may make payments for medical assistance and related services on behalf of the following persons who are determined 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.

(2)(a) *A caretaker relative/parent, a pregnant woman, a child under age 19 who would otherwise qualify for Florida Kidcare Medicaid, a child up to age 21 who would otherwise qualify under s. 409.903(1), a person age 65 or over, or a blind or disabled person who would otherwise be eligible for Florida Medicaid, except that the income or assets of such family or person exceed established limitations. A pregnant woman who would otherwise qualify for Medicaid under s. 409.903(5) except for her level of income and whose assets fall within the limits established by the Department of Children and Family Services for the medically needy. A pregnant woman who applies for medically needy eligibility may not be made presumptively eligible.*

(b) *A child under age 21 who would otherwise qualify for Medicaid or the Florida Kidcare program except for the family's level of income*

and whose assets fall within the limits established by the Department of Children and Family Services for the medically needy.

For a family or person in one of these coverage groups ~~this group~~, medical expenses are deductible from income in accordance with federal requirements in order to make a determination of eligibility. *Expenses used to meet spend-down liability are not reimbursable by Medicaid. Effective January 1, 2003, when determining the eligibility of a pregnant woman, a child, or an aged, blind, or disabled individual, \$270 will be deducted from the countable income of the filing unit. When determining the eligibility of the parent or caretaker relative as defined by Title XIX of the Social Security Act, the additional income disregard of \$270 does not apply. A family or person eligible under the coverage 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.*

Section 8. Paragraph (c) of subsection (5) of section 409.905, Florida Statutes, 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. Mandatory services rendered by providers in mobile units to Medicaid recipients may be restricted by the agency. 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.

(5) HOSPITAL INPATIENT SERVICES.—The agency shall pay for all covered services provided for the medical care and treatment of a recipient who is admitted as an inpatient by a licensed physician or dentist to a hospital licensed under part I of chapter 395. However, the agency shall limit the payment for inpatient hospital services for a Medicaid recipient 21 years of age or older to 45 days or the number of days necessary to comply with the General Appropriations Act.

(c) Agency for Health Care Administration shall adjust a hospital's current inpatient per diem rate to reflect the cost of serving the Medicaid population at that institution if:

1. The hospital experiences an increase in Medicaid caseload by more than 25 percent in any year, primarily resulting from the closure of a hospital in the same service area occurring after July 1, 1995; ~~or~~

2. The hospital's Medicaid per diem rate is at least 25 percent below the Medicaid per patient cost for that year; *or*:

3. *The hospital is located in a county that has five or fewer hospitals, began offering obstetrical services on or after September 1999, and has submitted a request in writing to the agency for a rate adjustment after July 1, 2000, but before September 30, 2000, in which case such hospital's Medicaid inpatient per diem rate shall be adjusted to cost, effective July 1, 2002.*

No later than ~~October 1 of each year~~ ~~November 1, 2001~~, the agency must provide estimated costs for any adjustment in a hospital inpatient per diem pursuant to this paragraph to the Executive Office of the Governor, the House of Representatives General Appropriations Committee, and the Senate Appropriations Committee. Before the agency implements a change in a hospital's inpatient per diem rate pursuant to this paragraph, the Legislature must have specifically appropriated sufficient funds in the General Appropriations Act to support the increase in cost as estimated by the agency.

Section 9. Effective July 1, 2002, subsections (1), (12), and (23) of section 409.906, Florida Statutes, as amended by section 3 of chapter 2001-377, Laws of Florida, are amended 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. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. 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. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(1) ADULT DENTURE SERVICES.—The agency may pay for dentures, the procedures required to seat dentures, and the repair and relining of dentures, provided by or under the direction of a licensed dentist, for a recipient who is age 21 or older. However, Medicaid will not provide reimbursement for dental services provided in a mobile dental unit, except for a mobile dental unit:

(a) Owned by, operated by, or having a contractual agreement with the Department of Health and complying with Medicaid's county health department clinic services program specifications as a county health department clinic services provider.

(b) Owned by, operated by, or having a contractual arrangement with a federally qualified health center and complying with Medicaid's federally qualified health center specifications as a federally qualified health center provider.

(c) Rendering dental services to Medicaid recipients, 21 years of age and older, at nursing facilities.

(d) Owned by, operated by, or having a contractual agreement with a state-approved dental educational institution.

~~(e) This subsection is repealed July 1, 2002.~~

(12) CHILDREN'S HEARING SERVICES.—The agency may pay for hearing and related services, including hearing evaluations, hearing aid devices, dispensing of the hearing aid, and related repairs, if provided to a recipient ~~under age 21~~ by a licensed hearing aid specialist, otolaryngologist, otologist, audiologist, or physician.

(23) CHILDREN'S VISUAL SERVICES.—The agency may pay for visual examinations, eyeglasses, and eyeglass repairs for a recipient ~~under age 21~~, if they are prescribed by a licensed physician specializing in diseases of the eye or by a licensed optometrist.

Section 10. Subsection (2) of section 409.9065, Florida Statutes, as amended by section 5 of chapter 2001-377, Laws of Florida, is amended to read:

409.9065 Pharmaceutical expense assistance.—

(2) ELIGIBILITY.—Eligibility for the program is limited to those individuals who qualify for limited assistance under the Florida Medicaid program as a result of being dually eligible for both Medicare and Medicaid, but whose limited assistance or Medicare coverage does not include any pharmacy benefit. *To the extent funds are appropriated, specifically eligible individuals are individuals ~~low-income senior citizens~~ who:*

(a) Are Florida residents age 65 and over;

(b) Have an income:

1. Between ~~88~~ 90 and 120 percent of the federal poverty level;

2. *Between 88 and 150 percent of the federal poverty level if the Federal Government increases the federal Medicaid match for persons between 100 and 150 percent of the federal poverty level; or*

3. *Between 88 percent of the federal poverty level and a level that can be supported with funds provided in the General Appropriations Act for the program offered under this section along with federal matching funds*

approved by the Federal Government under a s. 1115 waiver. The agency is authorized to submit and implement a federal waiver pursuant to this subparagraph. The agency shall design a pharmacy benefit that includes annual per-member benefit limits and cost-sharing provisions and limits enrollment to available appropriations and matching federal funds. Prior to implementing this program, the agency must submit a budget amendment pursuant to chapter 216;

- (c) Are eligible for both Medicare and Medicaid;
- (d) Are not enrolled in a Medicare health maintenance organization that provides a pharmacy benefit; and
- (e) Request to be enrolled in the program.

Section 11. Subsections (7) and (9) of section 409.907, Florida Statutes, as amended by section 6 of chapter 2001-377, Laws of Florida, are amended to read:

409.907 Medicaid provider agreements.—The agency may make payments for medical assistance and related services rendered to Medicaid recipients only to an individual or entity who has a provider agreement in effect with the agency, who is performing services or supplying goods in accordance with federal, state, and local law, and who agrees that no person shall, on the grounds of handicap, race, color, or national origin, or for any other reason, be subjected to discrimination under any program or activity for which the provider receives payment from the agency.

(7) The agency may require, as a condition of participating in the Medicaid program and before entering into the provider agreement, that the provider submit information, in an initial and any required renewal applications, concerning the professional, business, and personal background of the provider and permit an onsite inspection of the provider's service location by agency staff or other personnel designated by the agency to perform this function. *The agency shall perform a random onsite inspection, within 60 days after receipt of a fully complete new provider's application, of the provider's service location prior to making its first payment to the provider for Medicaid services to determine the applicant's ability to provide the services that the applicant is proposing to provide for Medicaid reimbursement. The agency is not required to perform an onsite inspection of a provider or program that is licensed by the agency, that provides services under waiver programs for home and community-based services, or that is licensed as a medical foster home by the Department of Children and Family Services.* As a continuing condition of participation in the Medicaid program, a provider shall immediately notify the agency of any current or pending bankruptcy filing. Before entering into the provider agreement, or as a condition of continuing participation in the Medicaid program, the agency may also require that Medicaid providers reimbursed on a fee-for-services basis or fee schedule basis which is not cost-based, post a surety bond not to exceed \$50,000 or the total amount billed by the provider to the program during the current or most recent calendar year, whichever is greater. For new providers, the amount of the surety bond shall be determined by the agency based on the provider's estimate of its first year's billing. If the provider's billing during the first year exceeds the bond amount, the agency may require the provider to acquire an additional bond equal to the actual billing level of the provider. A provider's bond shall not exceed \$50,000 if a physician or group of physicians licensed under chapter 458, chapter 459, or chapter 460 has a 50 percent or greater ownership interest in the provider or if the provider is an assisted living facility licensed under part III of chapter 400. The bonds permitted by this section are in addition to the bonds referenced in s. 400.179(4)(d). If the provider is a corporation, partnership, association, or other entity, the agency may require the provider to submit information concerning the background of that entity and of any principal of the entity, including any partner or shareholder having an ownership interest in the entity equal to 5 percent or greater, and any treating provider who participates in or intends to participate in Medicaid through the entity. The information must include:

- (a) Proof of holding a valid license or operating certificate, as applicable, if required by the state or local jurisdiction in which the provider is located or if required by the Federal Government.
- (b) Information concerning any prior violation, fine, suspension, termination, or other administrative action taken under the Medicaid laws, rules, or regulations of this state or of any other state or the Federal

Government; any prior violation of the laws, rules, or regulations relating to the Medicare program; any prior violation of the rules or regulations of any other public or private insurer; and any prior violation of the laws, rules, or regulations of any regulatory body of this or any other state.

(c) Full and accurate disclosure of any financial or ownership interest that the provider, or any principal, partner, or major shareholder thereof, may hold in any other Medicaid provider or health care related entity or any other entity that is licensed by the state to provide health or residential care and treatment to persons.

(d) If a group provider, identification of all members of the group and attestation that all members of the group are enrolled in or have applied to enroll in the Medicaid program.

(9) Upon receipt of a completed, signed, and dated application, and completion of any necessary background investigation and criminal history record check, the agency must either:

(a) Enroll the applicant as a Medicaid provider no earlier than the effective date of the approval of the provider application. *With respect to providers who were recently granted a change of ownership and those who primarily provide emergency medical services transportation or emergency services and care pursuant to s. 401.45 or s. 395.1041, and out-of-state providers, upon approval of the provider application, the effective date of approval is considered to be the date the agency receives the provider application; or*

(b) Deny the application if the agency finds that it is in the best interest of the Medicaid program to do so. The agency may consider the factors listed in subsection (10), as well as any other factor that could affect the effective and efficient administration of the program, including, but not limited to, *the applicant's demonstrated ability to provide services, conduct business, and operate a financially viable concern; the current availability of medical care, services, or supplies to recipients, taking into account geographic location and reasonable travel time; the number of providers of the same type already enrolled in the same geographic area; and the credentials, experience, success, and patient outcomes of the provider for the services that it is making application to provide in the Medicaid program. The agency shall deny the application if the agency finds that a provider; any officer, director, agent, managing employee, or affiliated person; or any partner or shareholder having an ownership interest equal to 5 percent or greater in the provider if the provider is a corporation, partnership, or other business entity, has failed to pay all outstanding fines or overpayments assessed by final order of the agency or final order of the Centers for Medicare and Medicaid Services, not subject to further appeal, unless the provider agrees to a repayment plan that includes withholding Medicaid reimbursement until the amount due is paid in full.*

Section 12. Section 409.908, Florida Statutes, as amended by section 7 of chapter 2001-377, Laws of Florida, 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. *If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be effected retroactively. Medicare granted extensions for filing cost reports, if applicable, shall also apply to Medicaid cost reports.* 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.

(1) Reimbursement to hospitals licensed under part I of chapter 395 must be made prospectively or on the basis of negotiation.

(a) Reimbursement for inpatient care is limited as provided for in s. 409.905(5), except for:

1. The raising of rate reimbursement caps, excluding rural hospitals.
2. Recognition of the costs of graduate medical education.
3. Other methodologies recognized in the General Appropriations Act.
4. Hospital inpatient rates shall be reduced by 6 percent effective July 1, 2001, and restored effective April 1, 2002.

During the years funds are transferred from the Department of Health, any reimbursement supported by such funds shall be subject to certification by the Department of Health that the hospital has complied with s. 381.0403. The agency is authorized to receive funds from state entities, including, but not limited to, the Department of Health, local governments, and other local political subdivisions, for the purpose of making special exception payments, including federal matching funds, through the Medicaid inpatient reimbursement methodologies. Funds received from state entities or local governments for this purpose shall be separately accounted for and shall not be commingled with other state or local funds in any manner. The agency may certify all local governmental funds used as state match under Title XIX of the Social Security Act, to the extent that the identified local health care provider that is otherwise entitled to and is contracted to receive such local funds is the beneficiary under the state's Medicaid program as determined under the General Appropriations Act and pursuant to an agreement between the Agency for Health Care Administration and the local governmental entity. The local governmental entity shall use a certification form prescribed by the agency. At a minimum, the certification form shall identify the amount being certified and describe the relationship between the certifying local governmental entity and the local health care provider. The agency shall prepare an annual statement of impact which documents the specific activities undertaken during the previous fiscal year pursuant to this paragraph, to be submitted to the Legislature no later than January 1, annually.

(b) Reimbursement for hospital outpatient care is limited to \$1,500 per state fiscal year per recipient, except for:

1. Such care provided to a Medicaid recipient under age 21, in which case the only limitation is medical necessity.
2. Renal dialysis services.
3. Other exceptions made by the agency.

The agency is authorized to receive funds from state entities, including, but not limited to, the Department of Health, the Board of Regents, local governments, and other local political subdivisions, for the purpose of making payments, including federal matching funds, through the Medicaid outpatient reimbursement methodologies. Funds received from state entities and local governments for this purpose shall be separately accounted for and shall not be commingled with other state or local funds in any manner.

(c) Hospitals that provide services to a disproportionate share of low-income Medicaid recipients, or that participate in the regional perinatal intensive care center program under chapter 383, or that participate in the statutory teaching hospital disproportionate share program may receive additional reimbursement. The total amount of payment for disproportionate share hospitals shall be fixed by the General Appropriations Act. The computation of these payments must be made in compliance with all federal regulations and the methodologies described in ss. 409.911, 409.9112, and 409.9113.

(d) The agency is authorized to limit inflationary increases for outpatient hospital services as directed by the General Appropriations Act.

(2)(a)1. Reimbursement to nursing homes licensed under part II of chapter 400 and state-owned-and-operated intermediate care facilities for the developmentally disabled licensed under chapter 393 must be made prospectively.

2. Unless otherwise limited or directed in the General Appropriations Act, reimbursement to hospitals licensed under part I of chapter

395 for the provision of swing-bed nursing home services must be made on the basis of the average statewide nursing home payment, and reimbursement to a hospital licensed under part I of chapter 395 for the provision of skilled nursing services must be made on the basis of the average nursing home payment for those services in the county in which the hospital is located. When a hospital is located in a county that does not have any community nursing homes, reimbursement must be determined by averaging the nursing home payments, in counties that surround the county in which the hospital is located. Reimbursement to hospitals, including Medicaid payment of Medicare copayments, for skilled nursing services shall be limited to 30 days, unless a prior authorization has been obtained from the agency. Medicaid reimbursement may be extended by the agency beyond 30 days, and approval must be based upon verification by the patient's physician that the patient requires short-term rehabilitative and recuperative services only, in which case an extension of no more than 15 days may be approved. Reimbursement to a hospital licensed under part I of chapter 395 for the temporary provision of skilled nursing services to nursing home residents who have been displaced as the result of a natural disaster or other emergency may not exceed the average county nursing home payment for those services in the county in which the hospital is located and is limited to the period of time which the agency considers necessary for continued placement of the nursing home residents in the hospital.

(b) Subject to any limitations or directions provided for in the General Appropriations Act, the agency shall establish and implement a Florida Title XIX Long-Term Care Reimbursement Plan (Medicaid) for nursing home care in order to provide care and services in conformance with the applicable state and federal laws, rules, regulations, and quality and safety standards and to ensure that individuals eligible for medical assistance have reasonable geographic access to such care.

1. Changes of ownership or of licensed operator do not qualify for increases in reimbursement rates associated with the change of ownership or of licensed operator. The agency shall amend the Title XIX Long Term Care Reimbursement Plan to provide that the initial nursing home reimbursement rates, for the operating, patient care, and MAR components, associated with related and unrelated party changes of ownership or licensed operator filed on or after September 1, 2001, are equivalent to the previous owner's reimbursement rate.

2. The agency shall amend the long-term care reimbursement plan and cost reporting system to create direct care and indirect care subcomponents of the patient care component of the per diem rate. These two subcomponents together shall equal the patient care component of the per diem rate. Separate cost-based ceilings shall be calculated for each patient care subcomponent. The direct care subcomponent of the per diem rate shall be limited by the cost-based class ceiling, and the indirect care subcomponent shall be limited by the lower of the cost-based class ceiling, by the target rate class ceiling, or by the individual provider target. The agency shall adjust the patient care component effective January 1, 2002. The cost to adjust the direct care subcomponent shall be net of the total funds previously allocated for the case mix add-on. The agency shall make the required changes to the nursing home cost reporting forms to implement this requirement effective January 1, 2002.

3. The direct care subcomponent shall include salaries and benefits of direct care staff providing nursing services including registered nurses, licensed practical nurses, and certified nursing assistants who deliver care directly to residents in the nursing home facility. This excludes nursing administration, MDS, and care plan coordinators, staff development, and staffing coordinator.

4. All other patient care costs shall be included in the indirect care cost subcomponent of the patient care per diem rate. There shall be no costs directly or indirectly allocated to the direct care subcomponent from a home office or management company.

5. On July 1 of each year, the agency shall report to the Legislature direct and indirect care costs, including average direct and indirect care costs per resident per facility and direct care and indirect care salaries and benefits per category of staff member per facility.

6. Under the plan, interim rate adjustments shall not be granted to reflect increases in the cost of general or professional liability insurance for nursing homes unless the following criteria are met: have at least a 65 percent Medicaid utilization in the most recent cost report submitted to the agency, and the increase in general or professional liability costs

to the facility for the most recent policy period affects the total Medicaid per diem by at least 5 percent. This rate adjustment shall not result in the per diem exceeding the class ceiling. This provision shall be implemented to the extent existing appropriations are available.

It is the intent of the Legislature that the reimbursement plan achieve the goal of providing access to health care for nursing home residents who require large amounts of care while encouraging diversion services as an alternative to nursing home care for residents who can be served within the community. The agency shall base the establishment of any maximum rate of payment, whether overall or component, on the available moneys as provided for in the General Appropriations Act. The agency may base the maximum rate of payment on the results of scientifically valid analysis and conclusions derived from objective statistical data pertinent to the particular maximum rate of payment.

(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.

- (a) Advanced registered nurse practitioner services.
- (b) Birth center services.
- (c) Chiropractic services.
- (d) Community mental health services.
- (e) Dental services, including oral and maxillofacial surgery.
- (f) Durable medical equipment.
- (g) Hearing services.
- (h) Occupational therapy for Medicaid recipients under age 21.
- (i) Optometric services.
- (j) Orthodontic services.
- (k) Personal care for Medicaid recipients under age 21.
- (l) Physical therapy for Medicaid recipients under age 21.
- (m) Physician assistant services.
- (n) Podiatric services.
- (o) Portable X-ray services.
- (p) Private-duty nursing for Medicaid recipients under age 21.
- (q) Registered nurse first assistant services.
- (r) Respiratory therapy for Medicaid recipients under age 21.
- (s) Speech therapy for Medicaid recipients under age 21.
- (t) Visual services.

(4) Subject to any limitations or directions provided for in the General Appropriations Act, alternative health plans, health maintenance organizations, and prepaid health plans shall be reimbursed a fixed, prepaid amount negotiated, or competitively bid pursuant to s. 287.057, by the agency and prospectively paid to the provider monthly for each Medicaid recipient enrolled. The amount may not exceed the average amount the agency determines it would have paid, based on claims experience, for recipients in the same or similar category of eligibility. The agency shall calculate capitation rates on a regional basis and, beginning September 1, 1995, shall include age-band differentials in such calculations. Effective July 1, 2001, the cost of exempting statutory teaching hospitals, specialty hospitals, and community hospital education program hospitals from reimbursement ceilings and the cost of special Medicaid payments shall not be included in premiums paid to

health maintenance organizations or prepaid health care plans. Each rate semester, the agency shall calculate and publish a Medicaid hospital rate schedule that does not reflect either special Medicaid payments or the elimination of rate reimbursement ceilings, to be used by hospitals and Medicaid health maintenance organizations, in order to determine the Medicaid rate referred to in ss. 409.912(16), 409.9128(5), and 641.513(6).

(5) An ambulatory surgical center shall be reimbursed the lesser of the amount billed by the provider or the Medicare-established allowable amount for the facility.

(6) A provider of early and periodic screening, diagnosis, and treatment services to Medicaid recipients who are children under age 21 shall be reimbursed using an all-inclusive rate stipulated in a fee schedule established by the agency. A provider of the visual, dental, and hearing components of such services shall be reimbursed the lesser of the amount billed by the provider or the Medicaid maximum allowable fee established by the agency.

(7) A provider of family planning services shall be reimbursed the lesser of the amount billed by the provider or an all-inclusive amount per type of visit for physicians and advanced registered nurse practitioners, as established by the agency in a fee schedule.

(8) A provider of home-based or community-based services rendered pursuant to a federally approved waiver shall be reimbursed based on an established or negotiated rate for each service. These rates shall be established according to an analysis of the expenditure history and prospective budget developed by each contract provider participating in the waiver program, or under any other methodology adopted by the agency and approved by the Federal Government in accordance with the waiver. Effective July 1, 1996, privately owned and operated community-based residential facilities which meet agency requirements and which formerly received Medicaid reimbursement for the optional intermediate care facility for the mentally retarded service may participate in the developmental services waiver as part of a home-and-community-based continuum of care for Medicaid recipients who receive waiver services.

(9) A provider of home health care services or of medical supplies and appliances shall be reimbursed on the basis of competitive bidding or for the lesser of the amount billed by the provider or the agency's established maximum allowable amount, except that, in the case of the rental of durable medical equipment, the total rental payments may not exceed the purchase price of the equipment over its expected useful life or the agency's established maximum allowable amount, whichever amount is less.

(10) A hospice shall be reimbursed through a prospective system for each Medicaid hospice patient at Medicaid rates using the methodology established for hospice reimbursement pursuant to Title XVIII of the federal Social Security Act.

(11) A provider of independent laboratory services shall be reimbursed on the basis of competitive bidding or for the least of the amount billed by the provider, the provider's usual and customary charge, or the Medicaid maximum allowable fee established by the agency.

(12)(a) A physician shall be reimbursed the lesser of the amount billed by the provider or the Medicaid maximum allowable fee established by the agency.

(b) The agency shall adopt a fee schedule, subject to any limitations or directions provided for in the General Appropriations Act, based on a resource-based relative value scale for pricing Medicaid physician services. Under this fee schedule, physicians shall be paid a dollar amount for each service based on the average resources required to provide the service, including, but not limited to, estimates of average physician time and effort, practice expense, and the costs of professional liability insurance. The fee schedule shall provide increased reimbursement for preventive and primary care services and lowered reimbursement for specialty services by using at least two conversion factors, one for cognitive services and another for procedural services. The fee schedule shall not increase total Medicaid physician expenditures unless moneys are available, and shall be phased in over a 2-year period beginning on July 1, 1994. The Agency for Health Care Administration shall seek the advice of a 16-member advisory panel in formulating and adopting the fee schedule. The panel shall consist of Medicaid physicians licensed

under chapters 458 and 459 and shall be composed of 50 percent primary care physicians and 50 percent specialty care physicians.

(c) Notwithstanding paragraph (b), reimbursement fees to physicians for providing total obstetrical services to Medicaid recipients, which include prenatal, delivery, and postpartum care, shall be at least \$1,500 per delivery for a pregnant woman with low medical risk and at least \$2,000 per delivery for a pregnant woman with high medical risk. However, reimbursement to physicians working in Regional Perinatal Intensive Care Centers designated pursuant to chapter 383, for services to certain pregnant Medicaid recipients with a high medical risk, may be made according to obstetrical care and neonatal care groupings and rates established by the agency. Nurse midwives licensed under part I of chapter 464 or midwives licensed under chapter 467 shall be reimbursed at no less than 80 percent of the low medical risk fee. The agency shall by rule determine, for the purpose of this paragraph, what constitutes a high or low medical risk pregnant woman and shall not pay more based solely on the fact that a caesarean section was performed, rather than a vaginal delivery. The agency shall by rule determine a prorated payment for obstetrical services in cases where only part of the total prenatal, delivery, or postpartum care was performed. The Department of Health shall adopt rules for appropriate insurance coverage for midwives licensed under chapter 467. Prior to the issuance and renewal of an active license, or reactivation of an inactive license for midwives licensed under chapter 467, such licensees shall submit proof of coverage with each application.

(d) For *fiscal years 2001-2002 and 2002-2003* ~~the 2001-2002 fiscal year~~ only and if necessary to meet the requirements for grants and donations for the special Medicaid payments authorized in the 2001-2002 and 2002-2003 General Appropriations Acts Act, the agency may make special Medicaid payments to qualified Medicaid providers designated by the agency, notwithstanding any provision of this subsection to the contrary, and may use intergovernmental transfers from state entities or *other governmental entities* to serve as the state share of such payments.

(13) Medicare premiums for persons eligible for both Medicare and Medicaid coverage shall be paid at the rates established by Title XVIII of the Social Security Act. For Medicare services rendered to Medicaid-eligible persons, Medicaid shall pay Medicare deductibles and coinsurance as follows:

(a) Medicaid shall make no payment toward deductibles and coinsurance for any service that is not covered by Medicaid.

(b) Medicaid's financial obligation for deductibles and coinsurance payments shall be based on Medicare allowable fees, not on a provider's billed charges.

(c) Medicaid will pay no portion of Medicare deductibles and coinsurance when payment that Medicare has made for the service equals or exceeds what Medicaid would have paid if it had been the sole payor. The combined payment of Medicare and Medicaid shall not exceed the amount Medicaid would have paid had it been the sole payor. The Legislature finds that there has been confusion regarding the reimbursement for services rendered to dually eligible Medicare beneficiaries. Accordingly, the Legislature clarifies that it has always been the intent of the Legislature before and after 1991 that, in reimbursing in accordance with fees established by Title XVIII for premiums, deductibles, and coinsurance for Medicare services rendered by physicians to Medicaid eligible persons, physicians be reimbursed at the lesser of the amount billed by the physician or the Medicaid maximum allowable fee established by the Agency for Health Care Administration, as is permitted by federal law. It has never been the intent of the Legislature with regard to such services rendered by physicians that Medicaid be required to provide any payment for deductibles, coinsurance, or copayments for Medicare cost sharing, or any expenses incurred relating thereto, in excess of the payment amount provided for under the State Medicaid plan for such service. This payment methodology is applicable even in those situations in which the payment for Medicare cost sharing for a qualified Medicare beneficiary with respect to an item or service is reduced or eliminated. This expression of the Legislature is in clarification of existing law and shall apply to payment for, and with respect to provider agreements with respect to, items or services furnished on or after the effective date of this act. This paragraph applies to payment by Medicaid for items and services furnished before the effective date of this act if such payment is the subject of a lawsuit that is based on the

provisions of this section, and that is pending as of, or is initiated after, the effective date of this act.

(d) Notwithstanding paragraphs (a)-(c):

1. Medicaid payments for Nursing Home Medicare part A coinsurance shall be the lesser of the Medicare coinsurance amount or the Medicaid nursing home per diem rate.

2. Medicaid shall pay all deductibles and coinsurance for Medicare-eligible recipients receiving freestanding end stage renal dialysis center services.

3. Medicaid payments for general hospital inpatient services shall be limited to the Medicare deductible per spell of illness. Medicaid shall make no payment toward coinsurance for Medicare general hospital inpatient services.

4. Medicaid shall pay all deductibles and coinsurance for Medicare emergency transportation services provided by ambulances licensed pursuant to chapter 401.

(14) A provider of prescribed drugs shall be reimbursed the least of the amount billed by the provider, the provider's usual and customary charge, or the Medicaid maximum allowable fee established by the agency, plus a dispensing fee. The agency is directed to implement a variable dispensing fee for payments for prescribed medicines while ensuring continued access for Medicaid recipients. The variable dispensing fee may be based upon, but not limited to, either or both the volume of prescriptions dispensed by a specific pharmacy provider, the volume of prescriptions dispensed to an individual recipient, and dispensing of preferred-drug-list products. The agency shall increase the pharmacy dispensing fee authorized by statute and in the annual General Appropriations Act by \$0.50 for the dispensing of a Medicaid preferred-drug-list product and reduce the pharmacy dispensing fee by \$0.50 for the dispensing of a Medicaid product that is not included on the preferred-drug list. The agency is authorized to limit reimbursement for prescribed medicine in order to comply with any limitations or directions provided for in the General Appropriations Act, which may include implementing a prospective or concurrent utilization review program.

(15) A provider of primary care case management services rendered pursuant to a federally approved waiver shall be reimbursed by payment of a fixed, prepaid monthly sum for each Medicaid recipient enrolled with the provider.

(16) A provider of rural health clinic services and federally qualified health center services shall be reimbursed a rate per visit based on total reasonable costs of the clinic, as determined by the agency in accordance with federal regulations.

(17) A provider of targeted case management services shall be reimbursed pursuant to an established fee, except where the Federal Government requires a public provider be reimbursed on the basis of average actual costs.

(18) Unless otherwise provided for in the General Appropriations Act, a provider of transportation services shall be reimbursed the lesser of the amount billed by the provider or the Medicaid maximum allowable fee established by the agency, except when the agency has entered into a direct contract with the provider, or with a community transportation coordinator, for the provision of an all-inclusive service, or when services are provided pursuant to an agreement negotiated between the agency and the provider. The agency, as provided for in s. 427.0135, shall purchase transportation services through the community coordinated transportation system, if available, unless the agency determines a more cost-effective method for Medicaid clients. Nothing in this subsection shall be construed to limit or preclude the agency from contracting for services using a prepaid capitation rate or from establishing maximum fee schedules, individualized reimbursement policies by provider type, negotiated fees, prior authorization, competitive bidding, increased use of mass transit, or any other mechanism that the agency considers efficient and effective for the purchase of services on behalf of Medicaid clients, including implementing a transportation eligibility process. The agency shall not be required to contract with any community transportation coordinator or transportation operator that has been determined by the agency, the Department of Legal Affairs Medicaid Fraud Control Unit, or any other state or federal agency to have engaged in any abusive or fraudulent billing activities. The agency is authorized to competitively

procure transportation services or make other changes necessary to secure approval of federal waivers needed to permit federal financing of Medicaid transportation services at the service matching rate rather than the administrative matching rate.

(19) County health department services may be reimbursed a rate per visit based on total reasonable costs of the clinic, as determined by the agency in accordance with federal regulations under the authority of 42 C.F.R. s. 431.615.

(20) A renal dialysis facility that provides dialysis services under s. 409.906(9) must be reimbursed the lesser of the amount billed by the provider, the provider's usual and customary charge, or the maximum allowable fee established by the agency, whichever amount is less.

(21) The agency shall reimburse school districts which certify the state match pursuant to ss. 236.0812 and 409.9071 for the federal portion of the school district's allowable costs to deliver the services, based on the reimbursement schedule. The school district shall determine the costs for delivering services as authorized in ss. 236.0812 and 409.9071 for which the state match will be certified. Reimbursement of school-based providers is contingent on such providers being enrolled as Medicaid 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, are eligible for reimbursement for services that are provided on school premises. Any employee of the school district who has been fingerprinted and has received a criminal background check in accordance with Department of Education rules and guidelines shall be exempt from any agency requirements relating to criminal background checks.

(22) The agency shall request and implement Medicaid waivers from the federal Health Care Financing Administration to advance and treat a portion of the Medicaid nursing home per diem as capital for creating and operating a risk-retention group for self-insurance purposes, consistent with federal and state laws and rules.

Section 13. Paragraph (b) of subsection (7) of section 409.910, Florida Statutes, is amended to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(7) The agency shall recover the full amount of all medical assistance provided by Medicaid on behalf of the recipient to the full extent of third-party benefits.

(b) Upon receipt of any recovery or other collection pursuant to this section, the agency shall distribute the amount collected as follows:

1. To itself, an amount equal to the state Medicaid expenditures for the recipient plus any incentive payment made in accordance with paragraph (14)(a). *From this share the agency shall credit a county on its county billing invoice the county's proportionate share of Medicaid third-party recoveries in the areas of estate recoveries and casualty claims, minus the agency's cost of recovering the third-party payments, based on the county's percentage of the sum of total county billing divided by total Medicaid expenditures. However, if a county has been billed for its participation but has not paid the amount due, the agency shall offset that amount and notify the county of the amount of the offset. If the county has divided its financial responsibility between the county and a special taxing district or authority as contemplated in s. 409.915(6), the county must proportionately divide any refund or offset in accordance with the proration that it has established.*

2. To the Federal Government, the federal share of the state Medicaid expenditures minus any incentive payment made in accordance with paragraph (14)(a) and federal law, and minus any other amount permitted by federal law to be deducted.

3. To the recipient, after deducting any known amounts owed to the agency for any related medical assistance or to health care providers, any remaining amount. This amount shall be treated as income or resources in determining eligibility for Medicaid.

The provisions of this subsection do not apply to any proceeds received by the state, or any agency thereof, pursuant to a final order, judgment,

or settlement agreement, in any matter in which the state asserts claims brought on its own behalf, and not as a subrogee of a recipient, or under other theories of liability. The provisions of this subsection do not apply to any proceeds received by the state, or an agency thereof, pursuant to a final order, judgment, or settlement agreement, in any matter in which the state asserted both claims as a subrogee and additional claims, except as to those sums specifically identified in the final order, judgment, or settlement agreement as reimbursements to the recipient as expenditures for the named recipient on the subrogation claim.

Section 14. Paragraph (g) of subsection (3) and paragraph (c) of subsection (37) of section 409.912, Florida Statutes, as amended by sections 8 and 9 of chapter 2001-377, Laws of Florida, are 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. The agency may establish prior authorization requirements for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions. The Pharmaceutical and Therapeutics Committee shall make recommendations to the agency on drugs for which prior authorization is required. The agency shall inform the Pharmaceutical and Therapeutics Committee of its decisions regarding drugs subject to prior authorization.

(3) The agency may contract with:

(g) Children's provider networks that provide care coordination and care management for Medicaid-eligible pediatric patients, primary care, authorization of specialty care, and other urgent and emergency care through organized providers designed to service Medicaid eligibles under age 18 *and pediatric emergency departments' diversion programs*. The networks shall provide after-hour operations, including evening and weekend hours, to promote, when appropriate, the use of the children's networks rather than hospital emergency departments.

(37)

(c) The agency shall submit *quarterly reports* ~~a report~~ to the Governor, the President of the Senate, and the Speaker of the House of Representatives *which by January 15 of each year. The report* must include, but need not be limited to, the progress made in implementing *this subsection and its Medicaid cost-containment measures and their effect* on Medicaid prescribed-drug expenditures.

Section 15. Subsection (7) of section 409.9116, Florida Statutes, is amended to read:

409.9116 Disproportionate share/financial assistance program for rural hospitals.—In addition to the payments made under s. 409.911, the Agency for Health Care Administration shall administer a federally matched disproportionate share program and a state-funded financial assistance program for statutory rural hospitals. The agency shall make disproportionate share payments to statutory rural hospitals that qualify for such payments and financial assistance payments to statutory rural hospitals that do not qualify for disproportionate share payments. The disproportionate share program payments shall be limited by and conform with federal requirements. Funds shall be distributed quarterly in each fiscal year for which an appropriation is made. Notwithstanding the provisions of s. 409.915, counties are exempt from contributing toward the cost of this special reimbursement for hospitals serving a disproportionate share of low-income patients.

(7) This section applies only to hospitals that were defined as statutory rural hospitals, or their successor-in-interest hospital, prior to *January 1, 2001 July 1, 1998*. Any additional hospital that is defined as a statutory rural hospital, or its successor-in-interest hospital, on or after *January 1, 2001 July 1, 1998*, is not eligible for programs under this section unless additional funds are appropriated each fiscal year specifically to the rural hospital disproportionate share and financial assist-

ance programs in an amount necessary to prevent any hospital, or its successor-in-interest hospital, eligible for the programs prior to *January 1, 2001 July 1, 1998*, from incurring a reduction in payments because of the eligibility of an additional hospital to participate in the programs. A hospital, or its successor-in-interest hospital, which received funds pursuant to this section before *January 1, 2001 July 1, 1998*, and which qualifies under s. 395.602(2)(e), shall be included in the programs under this section and is not required to seek additional appropriations under this subsection.

Section 16. Paragraphs (f) and (k) of subsection (2) of section 409.9122, Florida Statutes, as amended by section 11 of chapter 2001-377, Laws of Florida, are amended to read:

409.9122 Mandatory Medicaid managed care enrollment; programs and procedures.—

(2)

(f) When a Medicaid recipient does not choose a managed care plan or MediPass provider, the agency shall assign the Medicaid recipient to a managed care plan or MediPass provider. Medicaid recipients who are subject to mandatory assignment but who fail to make a choice shall be assigned to managed care plans ~~or provider service networks~~ until an equal enrollment of ~~45 50~~ percent in MediPass and ~~55 50~~ percent in managed care plans is achieved. Once ~~that equal~~ enrollment is achieved, the assignments shall be divided in order to maintain an ~~equal~~ enrollment in MediPass and managed care plans ~~which is in a 45 percent and 55 percent proportion, respectively~~. Thereafter, assignment of Medicaid recipients who fail to make a choice shall be based proportionally on the preferences of recipients who have made a choice in the previous period. Such proportions shall be revised at least quarterly to reflect an update of the preferences of Medicaid recipients. The agency shall also disproportionately assign Medicaid-eligible children in families who are required to but have failed to make a choice of managed care plan or MediPass for their child and who are to be assigned to the MediPass program or managed care plans to children's networks as described in s. 409.912(3)(g) and where available. The disproportionate assignment of children to children's networks shall be made until the agency has determined that the children's networks have sufficient numbers to be economically operated. For purposes of this ~~section paragraph~~, when referring to assignment, the term "managed care plans" includes health maintenance organizations, exclusive provider organizations, provider service networks, minority physician networks, children's medical service networks, and pediatric emergency department diversion programs authorized by this chapter or the General Appropriations Act. When making assignments, the agency shall take into account the following criteria:

1. A managed care plan has sufficient network capacity to meet the need of members.

2. The managed care plan or MediPass has previously enrolled the recipient as a member, or one of the managed care plan's primary care providers or MediPass providers has previously provided health care to the recipient.

3. The agency has knowledge that the member has previously expressed a preference for a particular managed care plan or MediPass provider as indicated by Medicaid fee-for-service claims data, but has failed to make a choice.

4. The managed care plan's or MediPass primary care providers are geographically accessible to the recipient's residence.

(k) When a Medicaid recipient does not choose a managed care plan or MediPass provider, the agency shall assign the Medicaid recipient to a managed care plan, except in those counties in which there are fewer than two managed care plans accepting Medicaid enrollees, in which case assignment shall be to a managed care plan or a MediPass provider. Medicaid recipients in counties with fewer than two managed care plans accepting Medicaid enrollees who are subject to mandatory assignment but who fail to make a choice shall be assigned to managed care plans until an equal enrollment of ~~45 50~~ percent in MediPass ~~and provider service networks~~ and ~~55 50~~ percent in managed care plans is achieved. Once ~~that equal~~ enrollment is achieved, the assignments shall be divided in order to maintain an ~~equal~~ enrollment in MediPass and managed care plans ~~which is in a 45 percent and 55 percent proportion, respectively~~.

When making assignments, the agency shall take into account the following criteria:

1. A managed care plan has sufficient network capacity to meet the need of members.

2. The managed care plan or MediPass has previously enrolled the recipient as a member, or one of the managed care plan's primary care providers or MediPass providers has previously provided health care to the recipient.

3. The agency has knowledge that the member has previously expressed a preference for a particular managed care plan or MediPass provider as indicated by Medicaid fee-for-service claims data, but has failed to make a choice.

4. The managed care plan's or MediPass primary care providers are geographically accessible to the recipient's residence.

5. The agency has authority to make mandatory assignments based on quality of service and performance of managed care plans.

Section 17. Section 409.913, Florida Statutes, as amended by section 12 of chapter 2001-377, Laws of Florida, is amended to read:

409.913 Oversight of the integrity of the Medicaid program.—The agency shall operate a program to oversee the activities of Florida Medicaid recipients, and providers and their representatives, to ensure that fraudulent and abusive behavior and neglect of recipients occur to the minimum extent possible, and to recover overpayments and impose sanctions as appropriate. *Beginning January 1, 2003, and each year thereafter, the agency and the Medicaid Fraud Control Unit of the Department of Legal Affairs shall submit a joint report to the Legislature documenting the effectiveness of the state's efforts to control Medicaid fraud and abuse and to recover Medicaid overpayments during the previous fiscal year. The report must describe the number of cases opened and investigated each year; the sources of the cases opened; the disposition of the cases closed each year; the amount of overpayments alleged in preliminary and final audit letters; the number and amount of fines or penalties imposed; any reductions in overpayment amounts negotiated in settlement agreements or by other means; the amount of final agency determinations of overpayments; the amount deducted from federal claiming as a result of overpayments; the amount of overpayments recovered each year; the amount of cost of investigation recovered each year; the average length of time to collect from the time the case was opened until the overpayment is paid in full; the amount determined as uncollectible and the portion of the uncollectible amount subsequently reclaimed from the Federal Government; the number of providers, by type, that are terminated from participation in the Medicaid program as a result of fraud and abuse; and all costs associated with discovering and prosecuting cases of Medicaid overpayments and making recoveries in such cases. The report must also document actions taken to prevent overpayments and the number of providers prevented from enrolling in or reenrolling in the Medicaid program as a result of documented Medicaid fraud and abuse and must recommend changes necessary to prevent or recover overpayments. For the 2001-2002 fiscal year, the agency shall prepare a report that contains as much of this information as is available to it.*

(1) For the purposes of this section, the term:

(a) "Abuse" means:

1. Provider practices that are inconsistent with generally accepted business or medical practices and that result in an unnecessary cost to the Medicaid program or in reimbursement for goods or services that are not medically necessary or that fail to meet professionally recognized standards for health care.

2. Recipient practices that result in unnecessary cost to the Medicaid program.

(b) "Complaint" means an allegation that fraud, abuse or an overpayment has occurred.

(c)(b) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception results in unauthorized benefit to herself or himself or another person. The term includes any act that constitutes fraud under applicable federal or state law.

(d)(e) “Medical necessity” or “medically necessary” means any goods or services necessary to palliate the effects of a terminal condition, or to prevent, diagnose, correct, cure, alleviate, or preclude deterioration of a condition that threatens life, causes pain or suffering, or results in illness or infirmity, which goods or services are provided in accordance with generally accepted standards of medical practice. For purposes of determining Medicaid reimbursement, the agency is the final arbiter of medical necessity. Determinations of medical necessity must be made by a licensed physician employed by or under contract with the agency and must be based upon information available at the time the goods or services are provided.

(e)(d) “Overpayment” includes any amount that is not authorized to be paid by the Medicaid program whether paid as a result of inaccurate or improper cost reporting, improper claiming, unacceptable practices, fraud, abuse, or mistake.

(f)(e) “Person” means any natural person, corporation, partnership, association, clinic, group, or other entity, whether or not such person is enrolled in the Medicaid program or is a provider of health care.

(2) The agency shall conduct, or cause to be conducted by contract or otherwise, reviews, investigations, analyses, audits, or any combination thereof, to determine possible fraud, abuse, overpayment, or recipient neglect in the Medicaid program and shall report the findings of any overpayments in audit reports as appropriate.

(3) The agency may conduct, or may contract for, prepayment review of provider claims to ensure cost-effective purchasing, billing, and provision of care to Medicaid recipients. Such prepayment reviews may be conducted as determined appropriate by the agency, without any suspicion or allegation of fraud, abuse, or neglect.

(4) Any suspected criminal violation identified by the agency must be referred to the Medicaid Fraud Control Unit of the Office of the Attorney General for investigation. The agency and the Attorney General shall enter into a memorandum of understanding, which must include, but need not be limited to, a protocol for regularly sharing information and coordinating casework. The protocol must establish a procedure for the referral by the agency of cases involving suspected Medicaid fraud to the Medicaid Fraud Control Unit for investigation, and the return to the agency of those cases where investigation determines that administrative action by the agency is appropriate. *Offices of the Medicaid program integrity program and the Medicaid Fraud Control Unit of the Department of Legal Affairs, shall, to the extent possible, be collocated. The agency and the Department of Legal Affairs shall periodically conduct joint training and other joint activities designed to increase communication and coordination in recovering overpayments.*

(5) A Medicaid provider is subject to having goods and services that are paid for by the Medicaid program reviewed by an appropriate peer-review organization designated by the agency. The written findings of the applicable peer-review organization are admissible in any court or administrative proceeding as evidence of medical necessity or the lack thereof.

(6) Any notice required to be given to a provider under this section is presumed to be sufficient notice if sent to the address last shown on the provider enrollment file. It is the responsibility of the provider to furnish and keep the agency informed of the provider’s current address. United States Postal Service proof of mailing or certified or registered mailing of such notice to the provider at the address shown on the provider enrollment file constitutes sufficient proof of notice. Any notice required to be given to the agency by this section must be sent to the agency at an address designated by rule.

(7) When presenting a claim for payment under the Medicaid program, a provider has an affirmative duty to supervise the provision of, and be responsible for, goods and services claimed to have been provided, to supervise and be responsible for preparation and submission of the claim, and to present a claim that is true and accurate and that is for goods and services that:

(a) Have actually been furnished to the recipient by the provider prior to submitting the claim.

(b) Are Medicaid-covered goods or services that are medically necessary.

(c) Are of a quality comparable to those furnished to the general public by the provider’s peers.

(d) Have not been billed in whole or in part to a recipient or a recipient’s responsible party, except for such copayments, coinsurance, or deductibles as are authorized by the agency.

(e) Are provided in accord with applicable provisions of all Medicaid rules, regulations, handbooks, and policies and in accordance with federal, state, and local law.

(f) Are documented by records made at the time the goods or services were provided, demonstrating the medical necessity for the goods or services rendered. Medicaid goods or services are excessive or not medically necessary unless both the medical basis and the specific need for them are fully and properly documented in the recipient’s medical record.

(8) A Medicaid provider shall retain medical, professional, financial, and business records pertaining to services and goods furnished to a Medicaid recipient and billed to Medicaid for a period of 5 years after the date of furnishing such services or goods. The agency may investigate, review, or analyze such records, which must be made available during normal business hours. However, 24-hour notice must be provided if patient treatment would be disrupted. The provider is responsible for furnishing to the agency, and keeping the agency informed of the location of, the provider’s Medicaid-related records. The authority of the agency to obtain Medicaid-related records from a provider is neither curtailed nor limited during a period of litigation between the agency and the provider.

(9) Payments for the services of billing agents or persons participating in the preparation of a Medicaid claim shall not be based on amounts for which they bill nor based on the amount a provider receives from the Medicaid program.

(10) The agency may require repayment for inappropriate, medically unnecessary, or excessive goods or services from the person furnishing them, the person under whose supervision they were furnished, or the person causing them to be furnished.

(11) The complaint and all information obtained pursuant to an investigation of a Medicaid provider, or the authorized representative or agent of a provider, relating to an allegation of fraud, abuse, or neglect are confidential and exempt from the provisions of s. 119.07(1):

(a) Until the agency takes final agency action with respect to the provider and requires repayment of any overpayment, or imposes an administrative sanction;

(b) Until the Attorney General refers the case for criminal prosecution;

(c) Until 10 days after the complaint is determined without merit; or

(d) At all times if the complaint or information is otherwise protected by law.

(12) The agency may terminate participation of a Medicaid provider in the Medicaid program and may seek civil remedies or impose other administrative sanctions against a Medicaid provider, if the provider has been:

(a) Convicted of a criminal offense related to the delivery of any health care goods or services, including the performance of management or administrative functions relating to the delivery of health care goods or services;

(b) Convicted of a criminal offense under federal law or the law of any state relating to the practice of the provider’s profession; or

(c) Found by a court of competent jurisdiction to have neglected or physically abused a patient in connection with the delivery of health care goods or services.

(13) If the provider has been suspended or terminated from participation in the Medicaid program or the Medicare program by the Federal Government or any state, the agency must immediately suspend or terminate, as appropriate, the provider’s participation in the Florida

Medicaid program for a period no less than that imposed by the Federal Government or any other state, and may not enroll such provider in the Florida Medicaid program while such foreign suspension or termination remains in effect. This sanction is in addition to all other remedies provided by law.

(14) The agency may seek any remedy provided by law, including, but not limited to, the remedies provided in subsections (12) and (15) and s. 812.035, if:

(a) The provider's license has not been renewed, or has been revoked, suspended, or terminated, for cause, by the licensing agency of any state;

(b) The provider has failed to make available or has refused access to Medicaid-related records to an auditor, investigator, or other authorized employee or agent of the agency, the Attorney General, a state attorney, or the Federal Government;

(c) The provider has not furnished or has failed to make available such Medicaid-related records as the agency has found necessary to determine whether Medicaid payments are or were due and the amounts thereof;

(d) The provider has failed to maintain medical records made at the time of service, or prior to service if prior authorization is required, demonstrating the necessity and appropriateness of the goods or services rendered;

(e) The provider is not in compliance with provisions of Medicaid publications that have been adopted by reference as rules in the Florida Administrative Code; with provisions of state or federal laws, rules, or regulations; with provisions of the provider agreement between the agency and the provider; or with certifications found on claim forms or on transmittal forms for electronically submitted claims that are submitted by the provider or authorized representative, as such provisions apply to the Medicaid program;

(f) The provider or person who ordered or prescribed the care, services, or supplies has furnished, or ordered the furnishing of, goods or services to a recipient which are inappropriate, unnecessary, excessive, or harmful to the recipient or are of inferior quality;

(g) The provider has demonstrated a pattern of failure to provide goods or services that are medically necessary;

(h) The provider or an authorized representative of the provider, or a person who ordered or prescribed the goods or services, has submitted or caused to be submitted false or a pattern of erroneous Medicaid claims that have resulted in overpayments to a provider or that exceed those to which the provider was entitled under the Medicaid program;

(i) The provider or an authorized representative of the provider, or a person who has ordered or prescribed the goods or services, has submitted or caused to be submitted a Medicaid provider enrollment application, a request for prior authorization for Medicaid services, a drug exception request, or a Medicaid cost report that contains materially false or incorrect information;

(j) The provider or an authorized representative of the provider has collected from or billed a recipient or a recipient's responsible party improperly for amounts that should not have been so collected or billed by reason of the provider's billing the Medicaid program for the same service;

(k) The provider or an authorized representative of the provider has included in a cost report costs that are not allowable under a Florida Title XIX reimbursement plan, after the provider or authorized representative had been advised in an audit exit conference or audit report that the costs were not allowable;

(l) The provider is charged by information or indictment with fraudulent billing practices. The sanction applied for this reason is limited to suspension of the provider's participation in the Medicaid program for the duration of the indictment unless the provider is found guilty pursuant to the information or indictment;

(m) The provider or a person who has ordered, or prescribed the goods or services is found liable for negligent practice resulting in death or injury to the provider's patient;

(n) The provider fails to demonstrate that it had available during a specific audit or review period sufficient quantities of goods, or sufficient time in the case of services, to support the provider's billings to the Medicaid program;

(o) The provider has failed to comply with the notice and reporting requirements of s. 409.907; ~~or~~

(p) The agency has received reliable information of patient abuse or neglect or of any act prohibited by s. 409.920; *or*—

(q) *The provider has failed to comply with an agreed-upon repayment schedule.*

(15) The agency *shall* ~~may~~ impose any of the following sanctions or *disincentives* on a provider or a person for any of the acts described in subsection (14):

(a) Suspension for a specific period of time of not more than 1 year.

(b) Termination for a specific period of time of from more than 1 year to 20 years.

(c) Imposition of a fine of up to \$5,000 for each violation. Each day that an ongoing violation continues, such as refusing to furnish Medicaid-related records or refusing access to records, is considered, for the purposes of this section, to be a separate violation. Each instance of improper billing of a Medicaid recipient; each instance of including an unallowable cost on a hospital or nursing home Medicaid cost report after the provider or authorized representative has been advised in an audit exit conference or previous audit report of the cost unallowability; each instance of furnishing a Medicaid recipient goods or professional services that are inappropriate or of inferior quality as determined by competent peer judgment; each instance of knowingly submitting a materially false or erroneous Medicaid provider enrollment application, request for prior authorization for Medicaid services, drug exception request, or cost report; each instance of inappropriate prescribing of drugs for a Medicaid recipient as determined by competent peer judgment; and each false or erroneous Medicaid claim leading to an overpayment to a provider is considered, for the purposes of this section, to be a separate violation.

(d) Immediate suspension, if the agency has received information of patient abuse or neglect or of any act prohibited by s. 409.920. Upon suspension, the agency must issue an immediate final order under s. 120.569(2)(n).

(e) A fine, not to exceed \$10,000, for a violation of paragraph (14)(i).

(f) Imposition of liens against provider assets, including, but not limited to, financial assets and real property, not to exceed the amount of fines or recoveries sought, upon entry of an order determining that such moneys are due or recoverable.

(g) *Prepayment reviews of claims for a specified period of time.*

(h) *Comprehensive follow-up reviews of providers every 6 months to ensure that they are billing Medicaid correctly.*

(i) *Corrective-action plans that would remain in effect for providers for up to 3 years and that would be monitored by the agency every 6 months while in effect.*

(j)(g) ~~Other remedies as permitted by law to effect the recovery of a fine or overpayment.~~

The Secretary of Health Care Administration may make a determination that imposition of a sanction or disincentive is not in the best interest of the Medicaid program, in which case a sanction or disincentive shall not be imposed.

(16) In determining the appropriate administrative sanction to be applied, or the duration of any suspension or termination, the agency shall consider:

(a) The seriousness and extent of the violation or violations.

(b) Any prior history of violations by the provider relating to the delivery of health care programs which resulted in either a criminal conviction or in administrative sanction or penalty.

(c) Evidence of continued violation within the provider's management control of Medicaid statutes, rules, regulations, or policies after written notification to the provider of improper practice or instance of violation.

(d) The effect, if any, on the quality of medical care provided to Medicaid recipients as a result of the acts of the provider.

(e) Any action by a licensing agency respecting the provider in any state in which the provider operates or has operated.

(f) The apparent impact on access by recipients to Medicaid services if the provider is suspended or terminated, in the best judgment of the agency.

The agency shall document the basis for all sanctioning actions and recommendations.

(17) The agency may take action to sanction, suspend, or terminate a particular provider working for a group provider, and may suspend or terminate Medicaid participation at a specific location, rather than or in addition to taking action against an entire group.

(18) The agency shall establish a process for conducting followup reviews of a sampling of providers who have a history of overpayment under the Medicaid program. This process must consider the magnitude of previous fraud or abuse and the potential effect of continued fraud or abuse on Medicaid costs.

(19) In making a determination of overpayment to a provider, the agency must use accepted and valid auditing, accounting, analytical, statistical, or peer-review methods, or combinations thereof. Appropriate statistical methods may include, but are not limited to, sampling and extension to the population, parametric and nonparametric statistics, tests of hypotheses, and other generally accepted statistical methods. Appropriate analytical methods may include, but are not limited to, reviews to determine variances between the quantities of products that a provider had on hand and available to be purveyed to Medicaid recipients during the review period and the quantities of the same products paid for by the Medicaid program for the same period, taking into appropriate consideration sales of the same products to non-Medicaid customers during the same period. In meeting its burden of proof in any administrative or court proceeding, the agency may introduce the results of such statistical methods as evidence of overpayment.

(20) When making a determination that an overpayment has occurred, the agency shall prepare and issue an audit report to the provider showing the calculation of overpayments.

(21) The audit report, supported by agency work papers, showing an overpayment to a provider constitutes evidence of the overpayment. A provider may not present or elicit testimony, either on direct examination or cross-examination in any court or administrative proceeding, regarding the purchase or acquisition by any means of drugs, goods, or supplies; sales or divestment by any means of drugs, goods, or supplies; or inventory of drugs, goods, or supplies, unless such acquisition, sales, divestment, or inventory is documented by written invoices, written inventory records, or other competent written documentary evidence maintained in the normal course of the provider's business. Notwithstanding the applicable rules of discovery, all documentation that will be offered as evidence at an administrative hearing on a Medicaid overpayment must be exchanged by all parties at least 14 days before the administrative hearing or must be excluded from consideration.

(22)(a) In an audit or investigation of a violation committed by a provider which is conducted pursuant to this section, the agency is entitled to recover all investigative, legal, and expert witness costs if the agency's findings were not contested by the provider or, if contested, the agency ultimately prevailed.

(b) The agency has the burden of documenting the costs, which include salaries and employee benefits and out-of-pocket expenses. The amount of costs that may be recovered must be reasonable in relation to the seriousness of the violation and must be set taking into consideration the financial resources, earning ability, and needs of the provider, who has the burden of demonstrating such factors.

(c) The provider may pay the costs over a period to be determined by the agency if the agency determines that an extreme hardship would

result to the provider from immediate full payment. Any default in payment of costs may be collected by any means authorized by law.

(23) If the agency imposes an administrative sanction under this section upon any provider or other person who is regulated by another state entity, the agency shall notify that other entity of the imposition of the sanction. Such notification must include the provider's or person's name and license number and the specific reasons for sanction.

(24)(a) The agency may withhold Medicaid payments, in whole or in part, to a provider upon receipt of reliable evidence that the circumstances giving rise to the need for a withholding of payments involve fraud, willful misrepresentation, or abuse under the Medicaid program, or a crime committed while rendering goods or services to Medicaid recipients, pending completion of legal proceedings. If it is determined that fraud, willful misrepresentation, abuse, or a crime did not occur, the payments withheld must be paid to the provider within 14 days after such determination with interest at the rate of 10 percent a year. Any money withheld in accordance with this paragraph shall be placed in a suspended account, readily accessible to the agency, so that any payment ultimately due the provider shall be made within 14 days.

(b) Overpayments owed to the agency bear interest at the rate of 10 percent per year from the date of determination of the overpayment by the agency, and payment arrangements must be made at the conclusion of legal proceedings. A provider who does not *enter into or* adhere to an agreed-upon repayment schedule may be terminated by the agency for nonpayment or partial payment.

(c) The agency, upon entry of a final agency order, a judgment or order of a court of competent jurisdiction, or a stipulation or settlement, may collect the moneys owed by all means allowable by law, including, but not limited to, notifying any fiscal intermediary of Medicare benefits that the state has a superior right of payment. Upon receipt of such written notification, the Medicare fiscal intermediary shall remit to the state the sum claimed.

(25) The agency may impose administrative sanctions against a Medicaid recipient, or the agency may seek any other remedy provided by law, including, but not limited to, the remedies provided in s. 812.035, if the agency finds that a recipient has engaged in solicitation in violation of s. 409.920 or that the recipient has otherwise abused the Medicaid program.

(26) When the Agency for Health Care Administration has made a probable cause determination and alleged that an overpayment to a Medicaid provider has occurred, the agency, after notice to the provider, may:

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

1. Makes repayment in full; or
2. Establishes a repayment plan that is satisfactory to the Agency for Health Care Administration.

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

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

(27) Venue for all Medicaid program integrity overpayment cases shall lie in Leon County, at the discretion of the agency.

(28) *Notwithstanding other provisions of law, the agency and the Medicaid Fraud Control Unit of the Department of Legal Affairs may*

review a provider's Medicaid-related records in order to determine the total output of a provider's practice to reconcile quantities of goods or services billed to Medicaid against quantities of goods or services used in the provider's total practice.

(29) The agency may terminate a provider's participation in the Medicaid program if the provider fails to reimburse an overpayment that has been determined by final order, not subject to further appeal, within 35 days after the date of the final order, unless the provider and the agency have entered into a repayment agreement.

(30) If a provider requests an administrative hearing pursuant to chapter 120, such hearing must be conducted within 90 days following assignment of an administrative law judge, absent exceptionally good cause shown as determined by the administrative law judge or hearing officer. Upon issuance of a final order, the outstanding balance of the amount determined to constitute the overpayment shall become due. If a provider fails to make payments in full, fails to enter into a satisfactory repayment plan, or fails to comply with the terms of a repayment plan or settlement agreement, the agency may withhold medical-assistance-reimbursement payments until the amount due is paid in full.

(31) Duly authorized agents and employees of the agency shall have the power to inspect, during normal business hours, the records of any pharmacy, wholesale establishment, or manufacturer, or any other place in which drugs and medical supplies are manufactured, packed, packaged, made, stored, sold, or kept for sale, for the purpose of verifying the amount of drugs and medical supplies ordered, delivered, or purchased by a provider. The agency shall provide at least 2 business days' prior notice of any such inspection. The notice must identify the provider whose records will be inspected, and the inspection shall include only records specifically related to that provider.

(32) With respect to recoveries of Medicaid overpayments collected by the agency, by September 30 each year the agency shall credit a county on its county billing invoices for the county's proportionate share of Medicaid overpayments recovered during the previous fiscal year from hospitals for inpatient services and from nursing homes. However, if a county has been billed for its participation but has not paid the amount due, the agency shall offset that amount and notify the county of the amount of the offset. If the county has divided its financial responsibility between the county and a special taxing district or authority as provided in s. 409.915(6), the county must proportionately divide any credit or offset in accordance with the proration that it has established. The credit or offset shall be calculated separately for inpatient and nursing home services as follows:

(a) The state share of the amount recovered from hospitals for inpatient services and from nursing homes for which the county has not previously received credit;

(b) Less the state share of the agency's cost of recovering such payment; and

(c) Multiplied by the total county share. The total county share shall be calculated as the sum of total county billing for inpatient services and nursing home services, respectively, divided by the state share of Medicaid expenditures for inpatient services and nursing home services, respectively.

The credit given to each county shall be its proportionate share of the total county share calculated under paragraph (c).

Section 18. Subsections (7) and (8) of section 409.920, Florida Statutes, are amended to read:

409.920 Medicaid provider fraud.—

(7) The Attorney General shall conduct a statewide program of Medicaid fraud control. To accomplish this purpose, the Attorney General shall:

(a) Investigate the possible criminal violation of any applicable state law pertaining to fraud in the administration of the Medicaid program, in the provision of medical assistance, or in the activities of providers of health care under the Medicaid program.

(b) Investigate the alleged abuse or neglect of patients in health care facilities receiving payments under the Medicaid program, in coordination with the agency.

(c) Investigate the alleged misappropriation of patients' private funds in health care facilities receiving payments under the Medicaid program.

(d) Refer to the Office of Statewide Prosecution or the appropriate state attorney all violations indicating a substantial potential for criminal prosecution.

(e) Refer to the agency all suspected abusive activities not of a criminal or fraudulent nature.

~~(f) Refer to the agency for collection each instance of overpayment to a provider of health care under the Medicaid program which is discovered during the course of an investigation.~~

~~(f)(g)~~ Safeguard the privacy rights of all individuals and provide safeguards to prevent the use of patient medical records for any reason beyond the scope of a specific investigation for fraud or abuse, or both, without the patient's written consent.

(g) Publicize to state employees and the public the ability of persons to bring suit under the provisions of the Florida False Claims Act and the potential for the persons bring a civil action under the Florida False Claims Act to obtain a monetary award.

(8) In carrying out the duties and responsibilities under this ~~section~~ subsection, the Attorney General may:

(a) Enter upon the premises of any health care provider, excluding a physician, participating in the Medicaid program to examine all accounts and records that may, in any manner, be relevant in determining the existence of fraud in the Medicaid program, to investigate alleged abuse or neglect of patients, or to investigate alleged misappropriation of patients' private funds. A participating physician is required to make available any accounts or records that may, in any manner, be relevant in determining the existence of fraud in the Medicaid program. The accounts or records of a non-Medicaid patient may not be reviewed by, or turned over to, the Attorney General without the patient's written consent.

(b) Subpoena witnesses or materials, including medical records relating to Medicaid recipients, within or outside the state and, through any duly designated employee, administer oaths and affirmations and collect evidence for possible use in either civil or criminal judicial proceedings.

(c) Request and receive the assistance of any state attorney or law enforcement agency in the investigation and prosecution of any violation of this section.

(d) Seek any civil remedy provided by law, including, but not limited to, the remedies provided in ss. 68.081-68.092, s. 812.035, and this chapter.

~~(e) Refer to the agency for collection each instance of overpayment to a provider of health care under the Medicaid program which is discovered during the course of an investigation.~~

Section 19. Paragraph (a) of subsection (1) of section 499.012, Florida Statutes, is amended to read:

499.012 Wholesale distribution; definitions; permits; general requirements.—

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

(a) "Wholesale distribution" means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

1. Any of the following activities, which is not a violation of s. 499.005(21) if such activity is conducted in accordance with s. 499.014:

a. The purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a prescription drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of that organization.

b. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug by a charitable organization

described in s. 501(c)(3) of the Internal Revenue Code of 1986, as amended and revised, to a nonprofit affiliate of the organization to the extent otherwise permitted by law.

c. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug among hospitals or other health care entities that are under common control. For purposes of this section, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, by voting rights, by contract, or otherwise.

d. The sale, purchase, trade, or other transfer of a prescription drug from or for any federal, state, or local government agency or any entity eligible to purchase prescription drugs at public health services prices pursuant to Pub. L. No. 102-585, s. 602 to a contract provider or its subcontractor for eligible patients of the agency or entity under the following conditions:

(I) The agency or entity must obtain written authorization for the sale, purchase, trade, or other transfer of a prescription drug under this sub-subparagraph from the Secretary of Health or his or her designee.

(II) The contract provider or subcontractor must be authorized by law to administer or dispense prescription drugs.

(III) In the case of a subcontractor, the agency or entity must be a party to and execute the subcontract.

(IV) A contract provider or subcontractor must maintain separate and apart from other prescription drug inventory any prescription drugs of the agency or entity in its possession.

(V) The contract provider and subcontractor must maintain and produce immediately for inspection all records of movement or transfer of all the prescription drugs belonging to the agency or entity, including, but not limited to, the records of receipt and disposition of prescription drugs. Each contractor and subcontractor dispensing or administering these drugs must maintain and produce records documenting the dispensing or administration. Records that are required to be maintained include, but are not limited to, a perpetual inventory itemizing drugs received and drugs dispensed by prescription number or administered by patient identifier, which must be submitted to the agency or entity quarterly.

(VI) The contract provider or subcontractor may administer or dispense the prescription drugs only to the eligible patients of the agency or entity or must return the prescription drugs for or to the agency or entity. The contract provider or subcontractor must require proof from each person seeking to fill a prescription or obtain treatment that the person is an eligible patient of the agency or entity and must, at a minimum, maintain a copy of this proof as part of the records of the contractor or subcontractor required under sub-sub-subparagraph (V).

~~(VII) The prescription drugs transferred pursuant to this sub-subparagraph may not be billed to Medicaid.~~

~~(VII)(VIII)~~ In addition to the departmental inspection authority set forth in s. 499.051, the establishment of the contract provider and subcontractor and all records pertaining to prescription drugs subject to this sub-subparagraph shall be subject to inspection by the agency or entity. All records relating to prescription drugs of a manufacturer under this sub-subparagraph shall be subject to audit by the manufacturer of those drugs, without identifying individual patient information.

2. Any of the following activities, which is not a violation of s. 499.005(21) if such activity is conducted in accordance with rules established by the department:

a. The sale, purchase, or trade of a prescription drug among federal, state, or local government health care entities that are under common control and are authorized to purchase such prescription drug.

b. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug for emergency medical reasons. For purposes of this sub-subparagraph, the term "emergency medical reasons" includes transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage.

c. The transfer of a prescription drug acquired by a medical director on behalf of a licensed emergency medical services provider to that emergency medical services provider and its transport vehicles for use in accordance with the provider's license under chapter 401.

d. The revocation of a sale or the return of a prescription drug to the person's prescription drug wholesale supplier.

e. The donation of a prescription drug by a health care entity to a charitable organization that has been granted an exemption under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and that is authorized to possess prescription drugs.

f. The transfer of a prescription drug by a person authorized to purchase or receive prescription drugs to a person licensed or permitted to handle reverse distributions or destruction under the laws of the jurisdiction in which the person handling the reverse distribution or destruction receives the drug.

3. The distribution of prescription drug samples by manufacturers' representatives or distributors' representatives conducted in accordance with s. 499.028.

4. The sale, purchase, or trade of blood and blood components intended for transfusion. As used in this subparagraph, the term "blood" means whole blood collected from a single donor and processed either for transfusion or further manufacturing, and the term "blood components" means that part of the blood separated by physical or mechanical means.

5. The lawful dispensing of a prescription drug in accordance with chapter 465.

Section 20. (1) *The Agency for Health Care Administration shall conduct a study of health care services provided to the medically fragile or medical-technology-dependent children in the state and conduct a pilot program in Miami-Dade County to provide subacute pediatric transitional care to a maximum of 30 children at any one time. The purposes of the study and the pilot program are to determine ways to permit medically fragile or medical-technology-dependent children to successfully make a transition from acute care in a health care institution to live with their families when possible, and to provide cost-effective, subacute transitional care services.*

(2) *The Agency for Health Care Administration, in cooperation with the Children's Medical Services Program in the Department of Health, shall conduct a study to identify the total number of medically fragile or medical-technology-dependent children, from birth through age 21, in the state. By January 1, 2003, the agency must report to the Legislature regarding the children's ages, the locations where the children are served, the types of services received, itemized costs of the services, and the sources of funding that pay for the services, including the proportional share when more than one funding source pays for a service. The study must include information regarding medically fragile or medical-technology-dependent children residing in hospitals, nursing homes, and medical foster care, and those who live with their parents. The study must describe children served in prescribed pediatric extended-care centers, including their ages and the services they receive. The report must identify the total services provided for each child and the method for paying for those services. The report must also identify the number of such children who could, if appropriate transitional services were available, return home or move to a less-institutional setting.*

(3) *Within 30 days after the effective date of this act, the agency shall establish minimum staffing standards and quality requirements for a subacute pediatric transitional care center to be operated as a 2-year pilot program in Dade County. The pilot program must operate under the license of a hospital licensed under chapter 395, Florida Statutes, or a nursing home licensed under chapter 400, Florida Statutes, and shall use existing beds in the hospital or nursing home. A child's placement in the subacute pediatric transitional care center may not exceed 90 days. The center shall arrange for an alternative placement at the end of a child's stay and a transitional plan for children expected to remain in the facility for the maximum allowed stay.*

(4) *Within 60 days after the effective date of this act, the agency must amend the state Medicaid plan and request any federal waivers necessary to implement and fund the pilot program.*

(5) The subacute pediatric transitional care center must require level I background screening as provided in chapter 435, Florida Statutes, for all employees or prospective employees of the center who are expected to, or whose responsibilities may require them to, provide personal care or services to children, have access to children's living areas, or have access to children's funds or personal property.

(6) The subacute pediatric transitional care center must have an advisory board. Membership on the advisory board must include, but need not be limited to:

(a) A physician and an advanced registered nurse practitioner who is familiar with services for medically fragile or medical-technology-dependent children;

(b) A registered nurse who has experience in the care of medically fragile or medical-technology-dependent children;

(c) A child development specialist who has experience in the care of medically fragile or medical-technology-dependent children and their families;

(d) A social worker who has experience in the care of medically fragile or medical-technology-dependent children and their families; and

(e) A consumer representative who is a parent or guardian of a child placed in the center.

(7) The advisory board shall:

(a) Review the policy and procedure components of the center to assure conformance with applicable standards developed by the Agency for Health Care Administration; and

(b) Provide consultation with respect to the operational and programmatic components of the center.

(8) The subacute pediatric transitional care center must have written policies and procedures governing the admission, transfer, and discharge of children.

(9) The admission of each child to the center must be under the supervision of the center nursing administrator or his or her designee, and must be in accordance with the center's policies and procedures. Each Medicaid admission must be approved as appropriate for placement in the facility by the Children's Medical Services Multidisciplinary Assessment Team of the Department of Health, in conjunction with the Agency for Health Care Administration.

(10) Each child admitted to the center shall be admitted upon prescription of the medical director of the center, licensed pursuant to chapter 458 or chapter 459, Florida Statutes, and the child shall remain under the care of the medical director and the advanced registered nurse practitioner for the duration of his or her stay in the center.

(11) Each child admitted to the center must meet at least the following criteria:

(a) The child must be medically fragile or medical-technology-dependent.

(b) The child may not, prior to admission, present significant risk of infection to other children or personnel. The medical and nursing directors shall review, on a case-by-case basis, the condition of any child who is suspected of having an infectious disease to determine whether admission is appropriate.

(c) The child must be medically stabilized and require skilled nursing care or other interventions.

(12) If the child meets the criteria specified in paragraphs (11)(a), (b), and (c), the medical director or nursing director of the center shall implement a preadmission plan that delineates services to be provided and appropriate sources for such services.

(a) If the child is hospitalized at the time of referral, preadmission planning must include the participation of the child's parent or guardian and relevant medical, nursing, social services, and developmental staff to assure that the hospital's discharge plans will be implemented following the child's placement in the center.

(b) A consent form, outlining the purpose of the center, family responsibilities, authorized treatment, appropriate release of liability, and emergency disposition plans, must be signed by the parent or guardian and witnessed before the child is admitted to the center. The parent or guardian shall be provided a copy of the consent form.

(13) By January 1, 2003, the Agency for Health Care Administration shall report to the Legislature concerning the progress of the pilot program. By January 1, 2004, the agency shall submit to the Legislature a report on the success of the pilot program.

Section 21. The Office of Legislative Services shall contract for a business case study of the feasibility of outsourcing the administrative, investigative, legal, and prosecutorial functions and other tasks and services that are necessary to carry out the regulatory responsibilities of the Board of Dentistry, employing its own executive director and other staff, and obtaining authority over collections and expenditures of funds paid by professions regulated by the board into the Medical Quality Assurance Trust Fund. This feasibility study must include a business plan and an assessment of the direct and indirect costs associated with outsourcing these functions. The sum of \$50,000 is appropriated from the Board of Dentistry account within the Medical Quality Assurance Trust Fund to the Office of Legislative Services for the purpose of contracting for the study. The Office of Legislative Services shall submit the completed study to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2003.

Section 22. (1) Notwithstanding section 409.911(3), Florida Statutes, for the state fiscal year 2002-2003 only, the agency shall distribute moneys under the regular disproportionate share program only to hospitals that meet the federal minimum requirements and to public hospitals. Public hospitals are defined as those hospitals identified as government owned or operated in the Financial Hospital Uniform Reporting System (FHURS) data available to the agency as of January 1, 2002. The following methodology shall be used to distribute disproportionate share dollars to hospitals that meet the federal minimum requirements and to the public hospitals:

(a) For hospitals that meet the federal minimum requirements, the following formula shall be used:

$$TAA = TA * (1/5.5)$$

$$DSHP = (HMD/TMSD)*TA$$

TAA = total amount available.

TA = total appropriation.

DSHP = disproportionate share hospital payment.

HMD = hospital Medicaid days.

TSD = total state Medicaid days.

(b) The following formulas shall be used to pay disproportionate share dollars to public hospitals:

1. For state mental health hospitals:

$$DSHP = (HMD/TMD) * TAAMH$$

The total amount available for the state mental health hospitals shall be the difference between the federal cap for Institutions for Mental Diseases and the amounts paid under the mental health disproportionate share program.

2. For non-state government owned or operated hospitals with 3,200 or more Medicaid days:

$$DSHP = [(.85*HCCD/TCCD) + (.15*HMD/TMD)] * TAAPH$$

$$TAAPH = TAA - TAAMH$$

3. For non-state government owned or operated hospitals with less than 3,200 Medicaid days, a total of \$400,000 shall be distributed equally among these hospitals.

Where:

TAA = total available appropriation.

TAAPH = total amount available for public hospitals.

TAAMH = total amount available for mental health hospitals.

DSHP = disproportionate share hospital payments.

HMD = hospital Medicaid days.

TMD = total state Medicaid days for public hospitals.

HCCD = hospital charity care dollars.

TCCD = total state charity care dollars for public hospitals.

In computing the above amounts for public hospitals and hospitals that qualify under the federal minimum requirements, the agency shall use the 1997 audited data. In the event there is no 1997 audited data for a hospital, the agency shall use the 1994 audited data.

(2) Notwithstanding section 409.9112, Florida Statutes, for state fiscal year 2002-2003, only disproportionate share payments to regional perinatal intensive care centers shall be distributed in the same proportion as the disproportionate share payments made to the regional perinatal intensive care centers in the state fiscal year 2001-2002.

(3) Notwithstanding section 409.9117, Florida Statutes, for state fiscal year 2002-2003 only, disproportionate share payments to hospitals that qualify for primary care disproportionate share payments shall be distributed in the same proportion as the primary care disproportionate share payments made to those hospitals in the state fiscal year 2001-2002.

(4) In the event the Centers for Medicare and Medicaid Services does not approve Florida's inpatient hospital state plan amendment for the public disproportionate share program by November 1, 2002, the agency may make payments to hospitals under the regular disproportionate share program, regional perinatal intensive care centers disproportionate share program, and the primary care disproportionate share program using the same methodologies used in state fiscal year 2001-2002.

(5) For state fiscal year 2002-2003 only, no disproportionate share payments shall be made to specialty hospitals for children under the provisions of section 409.9119, Florida Statutes.

(6) This section expires July 1, 2003.

Section 23. The Agency for Health Care Administration may conduct a 2-year pilot project to authorize overnight stays in one ambulatory surgical center located in Acute Care Subdistrict 9-1. An overnight stay shall be permitted only to perform plastic and reconstructive surgeries defined by current procedural terminology code numbers 13000-19999. The total time a patient is at the ambulatory surgical center shall not exceed 23 hours and 59 minutes, including the surgery time, and the maximum planned duration of all surgical procedures combined shall not exceed 8 hours. Prior to implementation of the pilot project, the agency shall establish minimum requirements for protecting the health, safety, and welfare of patients receiving overnight care. These shall include, at a minimum, compliance with all statutes and rules applicable to ambulatory surgical centers and the requirements set forth in Rule 64B8-9.009, F.A.C., relating to Level II and Level III procedures. If the agency implements the pilot project, it shall, within 6 months after its completion, submit a report to the Legislature on whether to expand the pilot to include all ambulatory surgical centers. The recommendation shall be based on consideration of the efficacy and impact to patient safety and quality of patient care of providing plastic and reconstructive surgeries in the ambulatory surgical center setting. The agency is authorized to obtain such data as necessary to implement this section.

Section 24. Section 624.91, Florida Statutes, is amended to read:

624.91 The Florida Healthy Kids Corporation Act.—

(1) SHORT TITLE.—This section may be cited as the “William G. ‘Doc’ Myers Healthy Kids Corporation Act.”

(2) LEGISLATIVE INTENT.—

(a) The Legislature finds that increased access to health care services could improve children's health and reduce the incidence and costs of childhood illness and disabilities among children in this state. Many children do not have comprehensive, affordable health care services available. It is the intent of the Legislature that the Florida Healthy Kids Corporation provide comprehensive health insurance coverage to

such children. The corporation is encouraged to cooperate with any existing health service programs funded by the public or the private sector and to work cooperatively with the Florida Partnership for School Readiness.

(b) It is the intent of the Legislature that the Florida Healthy Kids Corporation serve as one of several providers of services to children eligible for medical assistance under Title XXI of the Social Security Act. Although the corporation may serve other children, the Legislature intends the primary recipients of services provided through the corporation be school-age children with a family income below 200 percent of the federal poverty level, who do not qualify for Medicaid. It is also the intent of the Legislature that state and local government Florida Healthy Kids funds, to the extent permissible under federal law, be used to continue and expand coverage, within available appropriations, to children not eligible for federal matching funds under Title XXI obtain matching federal dollars.

(3) NONENTITLEMENT.—Nothing in this section shall be construed as providing an individual with an entitlement to health care services. No cause of action shall arise against the state, the Florida Healthy Kids Corporation, or a unit of local government for failure to make health services available under this section.

(4) CORPORATION AUTHORIZATION, DUTIES, POWERS.—

(a) There is created the Florida Healthy Kids Corporation, a not-for-profit corporation which operates on sites designated by the corporation.

(b) The Florida Healthy Kids Corporation shall phase in a program to:

1. Organize school children groups to facilitate the provision of comprehensive health insurance coverage to children;

2. Arrange for the collection of any family, local contributions, or employer payment or premium, in an amount to be determined by the board of directors, to provide for payment of premiums for comprehensive insurance coverage and for the actual or estimated administrative expenses;

3. Arrange for the collection of any voluntary contributions to provide for payment of premiums for children who are not eligible for medical assistance under Title XXI of the Social Security Act. Each fiscal year, the corporation shall establish a local-match policy for the enrollment of non-Title XXI eligible children in the Healthy Kids program. By May 1 of each year, the corporation shall provide written notification of the amount to be remitted to the corporation for the following fiscal year under that policy. Local-match sources may include, but are not limited to, funds provided by municipalities, counties, school boards, hospitals, health care providers, charitable organizations, special taxing districts, and private organizations. The minimum local-match cash contributions required each fiscal year and local-match credits shall be determined by the General Appropriations Act. The corporation shall calculate a county's local-match rate based upon that county's percentage of the state's total non-Title XXI expenditures as reported in the corporation's most recently audited financial statement. In awarding the local-match credits, the corporation may consider factors including, but not limited to, population density, per-capita income, existing child-health-related expenditures and services in awarding the credits.

4. Accept voluntary supplemental local-match contributions that comply with the requirements of Title XXI of the Social Security Act for the purpose of providing additional coverage in contributing counties under Title XXI.

5.3. Establish the administrative and accounting procedures for the operation of the corporation;

6.4. Establish, with consultation from appropriate professional organizations, standards for preventive health services and providers and comprehensive insurance benefits appropriate to children; provided that such standards for rural areas shall not limit primary care providers to board-certified pediatricians;

7.5. Establish eligibility criteria which children must meet in order to participate in the program;

8.6. Establish procedures under which providers of local match to, applicants to and participants in the program may have grievances

reviewed by an impartial body and reported to the board of directors of the corporation;

9.7. Establish participation criteria and, if appropriate, contract with an authorized insurer, health maintenance organization, or insurance administrator to provide administrative services to the corporation;

10.8. Establish enrollment criteria which shall include penalties or waiting periods of not fewer than 60 days for reinstatement of coverage upon voluntary cancellation for nonpayment of family premiums;

11.9. If a space is available, establish a special open enrollment period of 30 days' duration for any child who is enrolled in Medicaid or Medikids if such child loses Medicaid or Medikids eligibility and becomes eligible for the Florida Healthy Kids program;

12.10. Contract with authorized insurers or any provider of health care services, meeting standards established by the corporation, for the provision of comprehensive insurance coverage to participants. Such standards shall include criteria under which the corporation may contract with more than one provider of health care services in program sites. Health plans shall be selected through a competitive bid process. The selection of health plans shall be based primarily on quality criteria established by the board. The health plan selection criteria and scoring system, and the scoring results, shall be available upon request for inspection after the bids have been awarded;

13. *Establish disenrollment criteria in the event local matching funds are insufficient to cover enrollments.*

14.11. Develop and implement a plan to publicize the Florida Healthy Kids Corporation, the eligibility requirements of the program, and the procedures for enrollment in the program and to maintain public awareness of the corporation and the program;

15.12. Secure staff necessary to properly administer the corporation. Staff costs shall be funded from state and local matching funds and such other private or public funds as become available. The board of directors shall determine the number of staff members necessary to administer the corporation;

16.13. As appropriate, enter into contracts with local school boards or other agencies to provide onsite information, enrollment, and other services necessary to the operation of the corporation;

17.14. Provide a report on an annual basis to the Governor, Insurance Commissioner, Commissioner of Education, Senate President, Speaker of the House of Representatives, and Minority Leaders of the Senate and the House of Representatives;

18.15. Each fiscal year, establish a maximum number of participants by county, on a statewide basis, who may enroll in the program; *and without the benefit of local matching funds. Thereafter, the corporation may establish local matching requirements for supplemental participation in the program. The corporation may vary local matching requirements and enrollment by county depending on factors which may influence the generation of local match, including, but not limited to, population density, per capita income, existing local tax effort, and other factors. The corporation also may accept in-kind match in lieu of cash for the local match requirement to the extent allowed by Title XXI of the Social Security Act; and*

19.16. Establish eligibility criteria, premium and cost-sharing requirements, and benefit packages which conform to the provisions of the Florida Kidcare program, as created in ss. 409.810-409.820.

(c) Coverage under the corporation's program is secondary to any other available private coverage held by the participant child or family member. The corporation may establish procedures for coordinating benefits under this program with benefits under other public and private coverage.

(d) The Florida Healthy Kids Corporation shall be a private corporation not for profit, organized pursuant to chapter 617, and shall have all powers necessary to carry out the purposes of this act, including, but not limited to, the power to receive and accept grants, loans, or advances of funds from any public or private agency and to receive and accept from any source contributions of money, property, labor, or any other thing of value, to be held, used, and applied for the purposes of this act.

(5) BOARD OF DIRECTORS.—

(a) The Florida Healthy Kids Corporation shall operate subject to the supervision and approval of a board of directors chaired by the Insurance Commissioner or her or his designee, and composed of 14 ~~12~~ other members selected for 3-year terms of office as follows:

1. One member appointed by the Commissioner of Education from among three persons nominated by the Florida Association of School Administrators;

2. One member appointed by the Commissioner of Education from among three persons nominated by the Florida Association of School Boards;

3. One member appointed by the Commissioner of Education from the Office of School Health Programs of the Florida Department of Education;

4. One member appointed by the Governor from among three members nominated by the Florida Pediatric Society;

5. One member, appointed by the Governor, who represents the Children's Medical Services Program;

6. One member appointed by the Insurance Commissioner from among three members nominated by the Florida Hospital Association;

7. Two members, appointed by the Insurance Commissioner, who are representatives of authorized health care insurers or health maintenance organizations;

8. One member, appointed by the Insurance Commissioner, who represents the Institute for Child Health Policy;

9. One member, appointed by the Governor, from among three members nominated by the Florida Academy of Family Physicians;

10. One member, appointed by the Governor, who represents the Agency for Health Care Administration; ~~and~~

11. The State Health Officer or her or his designee;

12. *One member, appointed by the Insurance Commissioner from among three members nominated by the Florida Association of Counties, representing rural counties; and*

13. *One member, appointed by the Governor from among three members nominated by the Florida Association of Counties, representing urban counties.*

(b) A member of the board of directors may be removed by the official who appointed that member. The board shall appoint an executive director, who is responsible for other staff authorized by the board.

(c) Board members are entitled to receive, from funds of the corporation, reimbursement for per diem and travel expenses as provided by s. 112.061.

(d) There shall be no liability on the part of, and no cause of action shall arise against, any member of the board of directors, or its employees or agents, for any action they take in the performance of their powers and duties under this act.

(6) LICENSING NOT REQUIRED; FISCAL OPERATION.—

(a) The corporation shall not be deemed an insurer. The officers, directors, and employees of the corporation shall not be deemed to be agents of an insurer. Neither the corporation nor any officer, director, or employee of the corporation is subject to the licensing requirements of the insurance code or the rules of the Department of Insurance. However, any marketing representative utilized and compensated by the corporation must be appointed as a representative of the insurers or health services providers with which the corporation contracts.

(b) The board has complete fiscal control over the corporation and is responsible for all corporate operations.

(c) The Department of Insurance shall supervise any liquidation or dissolution of the corporation and shall have, with respect to such liqui-

dation or dissolution, all power granted to it pursuant to the insurance code.

(7) ACCESS TO RECORDS; CONFIDENTIALITY; PENALTIES.—Notwithstanding any other laws to the contrary, the Florida Healthy Kids Corporation shall have access to the medical records of a student upon receipt of permission from a parent or guardian of the student. Such medical records may be maintained by state and local agencies. Any identifying information, including medical records and family financial information, obtained by the corporation pursuant to this subsection is confidential and is exempt from the provisions of s. 119.07(1). Neither the corporation nor the staff or agents of the corporation may release, without the written consent of the participant or the parent or guardian of the participant, to any state or federal agency, to any private business or person, or to any other entity, any confidential information received pursuant to this subsection. A violation of this subsection is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 25. *Subsection (5) of section 414.41, Florida Statutes, is repealed.*

Section 26. *If any law that is amended by this act was also amended by a law enacted at the 2002 Regular Session of the Legislature, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect should be given to each if that is possible.*

Section 27. Except as otherwise provided in this act, 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 health care; amending s. 16.59, F.S.; specifying additional requirements for the Medicaid Fraud Control Unit of the Department of Legal Affairs and the Medicaid program integrity program; amending s. 112.3187, F.S.; extending whistle-blower protection to employees of Medicaid providers reporting Medicaid fraud or abuse; amending s. 400.179, F.S.; providing exceptions to bond requirements; creating s. 408.831, F.S.; allowing the Agency for Health Care Administration to take action against a licensee in certain circumstances; amending s. 409.8177, F.S.; requiring the Agency for Health Care Administration to contract for an evaluation of the Florida Kidcare program; amending s. 409.902, F.S.; prescribing an additional condition on Medicaid eligibility; amending s. 409.904, F.S.; revising provisions governing optional payments for medical assistance and related services; amending s. 409.905, F.S.; providing additional criteria for the agency to adjust a hospital's inpatient per diem rate for Medicaid; amending s. 409.906, F.S.; authorizing the agency to make payments for specified services which are optional under Title XIX of the Social Security Act; amending s. 409.9065, F.S.; revising standards for pharmaceutical expense assistance; amending s. 409.907, F.S.; prescribing additional requirements with respect to provider enrollment; requiring that the Agency for Health Care Administration deny a provider's application under certain circumstances; amending s. 409.908, F.S.; providing additional requirements for cost-reporting; amending s. 409.910, F.S.; revising requirements for the distribution of funds recovered from third parties that are liable for making payments for medical care furnished to Medicaid recipients and in the case of recoveries of overpayments; amending s. 409.912, F.S.; revising provisions governing the purchase of goods and services for Medicaid recipients; providing for quarterly reports to the Governor and presiding officers of the Legislature; amending s. 409.9116, F.S.; revising the disproportionate share/financial assistance program for rural hospitals; amending s. 409.9122, F.S.; revising provisions governing mandatory Medicaid managed care enrollment; amending s. 409.913, F.S.; requiring that the agency and Medicaid Fraud Control Unit annually submit a report to the Legislature; defining the term "complaint"; specifying additional requirements for the Medicaid program integrity program and the Medicaid Fraud Control Unit of the Department of Legal Affairs; requiring imposition of sanctions or disincentives, except under certain circumstances; providing additional sanctions and disincentives; providing additional grounds under which the agency may terminate a provider's participation in the Medicaid program; providing additional requirements for administrative hearings; providing additional grounds for withholding payments to a provider; authorizing the agency and the Medicaid Fraud Control Unit to review certain records; requiring review by the Attorney General of certain settlements; requiring review by the Auditor General of certain

cost reports; requiring that the agency refund to a county any recovery of Medicaid overpayment received for hospital inpatient and nursing home services; providing a formula for calculating the credit; amending s. 409.920, F.S.; providing additional duties of the Medicaid Fraud Control Unit; amending s. 499.012, F.S.; redefining the term "wholesale distribution" with respect to regulation of distribution of prescription drugs; requiring the Agency for Health Care Administration to conduct a study of health care services provided to medically fragile or medical-technology-dependent children; requiring the Agency for Health Care Administration to conduct a pilot program for a subacute pediatric transitional care center; requiring background screening of center personnel; requiring the agency to amend the Medicaid state plan and seek federal waivers as necessary; requiring the center to have an advisory board; providing for membership on the advisory board; providing requirements for the admission, transfer, and discharge of a child to the center; requiring the agency to submit certain reports to the Legislature; providing guidelines for the agency to distribute disproportionate share funds during the 2002-2003 fiscal year; authorizing the Agency for Health Care Administration to conduct a pilot project on overnight stays in an ambulatory surgical center; amending s. 624.91, F.S.; revising duties of the Florida Healthy Kids Corporation with respect to annual determination of participation in the Healthy Kids Program; prescribing duties of the corporation in establishing local match requirements; revising the composition of the board of directors; requiring recommendations to the Legislature; repealing s. 414.41(5), F.S., relating to interest imposed upon the recovery amount of medical assistance overpayments; providing for construction of laws enacted at the 2002 Regular Session in relation to this act; providing effective dates.

On motion by Senator Silver, by two-thirds vote **HB 59-E** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Brown-Waite	Geller	Posey
Burt	Holzendorf	Pruitt
Campbell	Jones	Rossin
Carlton	King	Sanderson
Clary	Klein	Saunders
Constantine	Latvala	Sebesta
Cowin	Laurent	Silver
Crist	Lawson	Smith
Dawson	Lee	Sullivan
Diaz de la Portilla	Meek	Villalobos
Dyer	Miller	Wasserman Schultz
Futch	Mitchell	Webster
Garcia	Peaden	Wise

Nays—None

MOTION

On motion by Senator Silver, the Senate acceded to the request of the House to include **HB 59-E** as part of the Conference Committee on **HB 27-E**.

SB 34-E—A bill to be entitled An act relating to fraud prevention; creating the Fraud Prevention Unit within the Office of the Attorney General to improve and coordinate the state's response to fraud and related crimes; requiring the Fraud Prevention Unit to establish a State-wide Complaint Receipt and Referral Center to collect, refer, and analyze information concerning fraud; specifying goals of the center; specifying responsibilities of the Fraud Prevention Unit; providing requirements for projects supported by the Fraud Prevention Unit; requiring the unit to develop public information programs and establish recommended training curricula; authorizing the Attorney General to use volunteers; providing that volunteers are exempt from liability under the Florida Volunteer Protection Act; requiring the Fraud Prevention Unit to coordinate its investigations with other law enforcement agencies and victim-assistance programs; requiring the unit to use services of the Federal Trade Commission; requiring that the unit avoid duplicating services but communicate the availability of those services; requiring that the Fraud Prevention Unit be developed and operated using existing resources; providing for the use of donated funds and resources; authorizing state agencies and local businesses to assign employees to

assist the unit; authorizing the unit to assist victims in correcting credit reports or other identifying information; prohibiting the unit from providing legal representation to victims of fraud; providing an effective date.

—was read the second time by title. On motion by Senator Burt, by two-thirds vote **SB 34-E** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Burt	Holzendorf	Pruitt
Campbell	Jones	Rossin
Carlton	King	Sanderson
Clary	Klein	Saunders
Constantine	Latvala	Sebesta
Cowin	Laurent	Silver
Crist	Lawson	Smith
Dawson	Lee	Sullivan
Diaz de la Portilla	Meek	Villalobos
Dyer	Miller	Wasserman Schultz
Futch	Mitchell	Webster
Garcia	Peaden	Wise
Geller	Posey	

Nays—None

SB 54-E—A bill to be entitled An act relating to public records; exempting from public-records requirements complaints filed with the Statewide Complaint Receipt and Referral Center; providing guidelines for the use of such information; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was read the second time by title. On motion by Senator Burt, by two-thirds vote **SB 54-E** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Brown-Waite	Geller	Posey
Burt	Holzendorf	Pruitt
Campbell	Jones	Rossin
Carlton	King	Sanderson
Clary	Klein	Saunders
Constantine	Latvala	Sebesta
Cowin	Laurent	Silver
Crist	Lawson	Smith
Dawson	Lee	Sullivan
Diaz de la Portilla	Meek	Villalobos
Dyer	Miller	Wasserman Schultz
Futch	Mitchell	Webster
Garcia	Peaden	Wise

Nays—None

Consideration of **SB 68-E** was deferred.

THE PRESIDENT PRESIDING

CS for SB's 42-E and 26-E—A bill to be entitled An act relating to powers and duties of the Chief Financial Officer; creating s. 17.001, F.S.; establishing the Office of the Chief Financial Officer; creating s. 20.121, F.S.; creating the Department of Financial Services; providing for the divisions of the department; specifying division directors who shall act as agency head for purposes of ch. 120, F.S.; establishing the manner of their appointment and confirmation; providing that this act shall not affect the validity of certain judicial and administrative actions; transferring the Department of Banking and Finance and the Department of Insurance to the Department of Financial Services; repealing s. 20.12, F.S.; abolishing the Department of Banking and Finance; providing that existing agency contracts continue to be binding with the successor department or agency; repealing s. 20.13, F.S.; abolishing the Depart-

ment of Insurance; redesignating the Insurance Commissioner's Regulatory Trust Fund the Insurance Regulatory Trust Fund; redesignating the Department of Banking and Finance Regulatory Trust Fund the Banking and Finance Regulatory Trust Fund; amending and transferring ss. 18.01, 18.02, 18.021, 18.05, 18.06, 18.08, 18.10, 18.101, 18.103, 18.104, 18.125, 18.15, 18.17, 18.20, 18.23, 18.24, F.S., and amending ss. 11.12, 11.13, 11.147, 11.151, 11.40, 11.42, 13.05, 14.055, 14.057, 14.058, 14.202, 14.203, 14.24, 15.09, 16.10, 17.011, 17.02, 17.03, 17.031, 17.04, 17.0401, 17.041, 17.0415, 17.05, 17.06, 17.075, 17.076, 17.08, 17.09, 17.10, 17.11, 17.12, 17.13, 17.14, 17.16, 17.17, 17.20, 17.21, 17.22, 17.25, 17.26, 17.27, 17.28, 17.29, 17.30, 17.32, 17.325, 17.41, 17.43, 20.04, 20.055, 20.195, 20.425, 20.435, 24.105, 24.111, 24.112, 24.120, 25.241, 26.39, 27.08, 27.10, 27.11, 27.12, 27.13, 27.34, 27.3455, 27.703, 27.710, 27.711, 28.235, 28.24, 30.52, 40.30, 40.31, 40.33, 40.34, 40.35, 43.16, 43.19, 48.151, 55.03, 57.091, 68.083, 68.084, 68.087, 68.092, 77.0305, 92.39, 99.097, 101.151, 103.091, 107.11, 110.1127, 110.113, 110.114, 110.116, 110.1227, 110.1228, 110.123, 110.125, 110.181, 110.2037, 110.205, 112.061, 112.08, 112.191, 112.215, 112.3144, 112.3145, 112.3189, 112.31895, 112.3215, 112.63, 114.03, 116.03, 116.04, 116.05, 116.06, 116.14, 120.52, 120.80, 121.0312, 121.055, 121.061, 121.133, 121.4501, 125.0104, 129.201, 131.05, 137.09, 145.141, 154.02, 154.03, 154.05, 154.06, 154.209, 154.314, 163.01, 163.055, 163.3167, 175.101, 175.121, 175.151, 185.08, 185.10, 185.13, 189.4035, 189.412, 189.427, 190.007, 191.006, 192.091, 192.102, 193.092, 195.101, 198.29, 199.232, 203.01, 206.46, 210.16, 210.20, 210.50, 211.06, 211.32, 212.08, 212.12, 212.20, 213.053, 213.054, 213.255, 213.67, 213.75, 213.75, 215.02, 215.03, 215.04, 215.05, 215.11, 215.20, 215.22, 215.23, 215.24, 215.25, 215.26, 215.29, 215.31, 215.32, 215.3206, 215.3208, 215.321, 215.322, 215.34, 215.35, 215.405, 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518.115, 518.116, 519.101, 520.02, 520.07, 520.31, 520.34, 520.61, 520.76, 520.998, 526.141, 537.003, 537.004, 537.011, 548.066, 548.077, 550.0251, 550.054, 550.0951, 550.125, 550.135, 550.1645, 552.081, 552.161, 552.21, 552.26, 553.72, 553.73, 553.74, 553.79, 554.1021, 554.105, 554.111, 559.10, 559.543, 559.545, 559.55, 559.555, 559.725, 559.730, 559.928, 560.102, 560.103, 560.119, 560.4041, 560.408, 561.051, 562.44, 567.08, 569.205, 570.13, 570.195,

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creating ss. 633.801, 633.802, 633.803, 633.804, 633.805, 633.806, 633.807, 633.808, 633.809, 633.810, 633.811, 633.812, 633.813, 633.814, 633.815, 633.816, 633.817, 633.818, 633.819, 633.820, 633.821, F.S.; providing a short title; providing definitions; providing legislative intent; authorizing the Division of State Fire Marshal of the Department of Financial Services to adopt rules related to firefighter safety inspections; requiring the division to conduct a study of firefighter occupational diseases; authorizing representatives of the division to enter and inspect any place of firefighter employment; requiring firefighter employers to provide safe employment conditions; authorizing the division to adopt rules that prescribe means for preventing accidents in places of firefighter employment and establish standards for construction, repair, and maintenance; requiring the division to inspect places of firefighter employment and to develop safety and health programs for those firefighter employers whose employees have a high frequency or severity of work-related injuries; requiring certain firefighter employers to establish workplace safety committees and to maintain certain records; providing penalties for firefighter employers who violate provisions of the act; providing exemptions; providing a penalty for the failure to implement a safety and health program and cancellations; providing for expenses of administration; providing penalties for refusal to admit division; specifying firefighter employee rights and responsibilities; providing division remedies for failure to comply; providing penalties for firefighter employers who make false statements to the division or to an insurer; providing criminal penalties for false, malicious, or fraudulent statements and representations; specifying applicability to volunteer firefighters and fire departments; providing for workplace safety and authorizing the division to adopt rules including federal standards for assuring safe working conditions for all firefighter employees; amending s. 633.31, F.S.; changing the name of and expanding and diversifying the Firefighters Standards and Training Council; amending s. 633.33, F.S.; providing additional duties of the council; amending ss. 383.3362, 633.330, and 633.32, F.S.; revising cross-references, to conform; providing for legislative determination of important state interest; increasing membership on the board of directors of the Florida Healthy Kids Corporation; amending s. 288.99, F.S.; transferring certain responsibilities of the Office of Tourism, Trade, and Economic Development relating to the Certified Capital Company Act to the Department of Financial Services; prescribing duties of that department; revising and adding definitions; providing for additional premium tax credits under the act; repealing s. 18.03, F.S., relating to the residence and office of the Treasurer, s. 18.07, F.S., relating to records of warrants and state funds and securities, s.

18.09, F.S., relating to a report to the Legislature, s. 18.091, F.S., relating to employees for legislative sessions, s. 18.22, F.S., relating to rules, s. 627.0623, F.S., relating to restrictions on expenditures and solicitations of insurers and affiliates, s. 655.019, F.S., relating to campaign contributions and limitations on them, s. 657.067, F.S., relating to conversion of credit unions from federal to state charter; amending s. 163.05, F.S.; transferring responsibility for the Small County Technical Assistance Program from the Comptroller to the Commissioner of Agriculture; revising legislative findings; providing criteria for contracts between the commissioner and program providers; deleting responsibilities of the Legislative Committee on Intergovernmental Relations; authorizing the commissioner to award contracts to provide assistance to small counties; requiring fiscal oversight and performance reviews; providing an appropriation; amending s. 112.313, F.S.; declaring that certain relationships between business entities and the Governor and members of the Cabinet do not violate standards of conduct; providing for construction of laws enacted at the 2002 Regular Session in relation to this act; providing effective dates.

—was read the second time by title.

Senator Latvala moved the following amendment:

Amendment 1 (165384)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Effective January 7, 2003, subsection (3) of section 20.04, Florida Statutes, is amended to read:

20.04 Structure of executive branch.—The executive branch of state government is structured as follows:

(3) For their internal structure, all departments, except for the Department of *Financial Services Banking and Finance*, the Department of Children and Family Services, the Department of Corrections, the Department of Management Services, the Department of Revenue, and the Department of Transportation, must adhere to the following standard terms:

(a) The principal unit of the department is the “division.” Each division is headed by a “director.”

(b) The principal unit of the division is the “bureau.” Each bureau is headed by a “chief.”

(c) The principal unit of the bureau is the “section.” Each section is headed by an “administrator.”

(d) If further subdivision is necessary, sections may be divided into “subsections,” which are headed by “supervisors.”

Section 2. Effective January 7, 2003, section 20.121, Florida Statutes, is created to read:

20.121 *Department of Financial Services*.—There is created a *Department of Financial Services*.

(1) *DEPARTMENT HEAD*.—The head of the *Department of Financial Services* is the *Chief Financial Officer*.

(2) *DIVISIONS*.—The *Department of Financial Services* shall consist of the following divisions:

(a) *The Division of Accounting and Auditing*, which shall include the following bureau and office:

1. *The Bureau of Unclaimed Property*.

2. *The Office of Fiscal Integrity* which shall function as a criminal justice agency for purposes of ss. 943.045-943.08 and shall have a separate budget. The office may conduct investigations within or outside this state as the bureau deems necessary to aid in the enforcement of this section. If during an investigation the office has reason to believe that any criminal law of this state has or may have been violated, the office shall refer any records tending to show such violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required.

(b) *The Division of State Fire Marshal*.

(c) *The Division of Risk Management.*

(d) *The Division of Treasury, which shall include a Bureau of Deferred Compensation responsible for administering the Government Employees Deferred Compensation Plan established under s. 112.215 for state employees.*

(e) *The Division of Insurance Fraud.*

(f) *The Division of Rehabilitation and Liquidation.*

(g) *The Division of Insurance Agents and Agency Services.*

(h) *The Division of Consumer Services, which shall include a Bureau of Funeral and Cemetery Services.*

(i) *The Division of Workers' Compensation.*

(j) *The Division of Administration.*

(k) *The Division of Legal Services.*

(l) *The Division of Information Systems.*

(m) *The Office of Insurance Consumer Advocate.*

(3) **FINANCIAL SERVICES COMMISSION.**—Effective January 7, 2003, there is created within the Department of Financial Services the Financial Services Commission, composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, which shall for purposes of this section be referred to as the commission. Commission members shall serve as agency head of the Financial Services Commission. The commission shall be a separate budget entity and shall be exempt from the provisions of s. 20.052. Commission action shall be by majority vote consisting of at least three affirmative votes. The commission shall not be subject to control, supervision, or direction by the Department of Financial Services in any manner, including purchasing, transactions involving real or personal property, personnel, or budgetary matters.

(a) **STRUCTURE.**—The major structural unit of the commission is the office. Each office shall be headed by a director. The following offices are established:

1. *The Office of Insurance Regulation, which shall be responsible for all activities concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, adjusters, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision, as provided under the Insurance Code or chapter 636. The head of the Office of Insurance Regulation is the Director of the Office of Insurance Regulation.*

2. *The Office of Financial Institutions and Securities Regulation, which shall be responsible for all activities of the Financial Services Commission relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry. The head of the office is the Director of the Office of Financial Institutions and Securities Regulation. The Office of Financial Institutions and Securities Regulation shall include a Bureau of Financial Investigations, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08 and shall have a separate budget. The bureau may conduct investigations within or outside this state as the bureau deems necessary to aid in the enforcement of this section. If, during an investigation, the office has reason to believe that any criminal law of this state has or may have been violated, the office shall refer any records tending to show such violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required.*

(b) **ORGANIZATION.**—The commission shall establish by rule any additional organizational structure of the offices. It is the intent of the Legislature to provide the commission with the flexibility to organize the offices in any manner they determine appropriate to promote both efficiency and accountability.

(c) **POWERS.**—Commission members shall serve as the agency head for purposes of rulemaking under ss. 120.536-120.565 by the commission and all subunits of the commission. Each director is agency head for purposes of final agency action under chapter 120 for all areas within the regulatory authority delegated to the director's office.

(d) **APPOINTMENT AND QUALIFICATIONS OF DIRECTORS.**—The commission shall appoint or remove each director by a majority vote consisting of at least three affirmative votes, with both the Governor and the Chief Financial Officer on the prevailing side. The minimum qualifications of the directors are as follows:

1. *Prior to appointment as director, the director of the Office of Insurance Regulation must have had, within the previous 10 years, at least 5 years of responsible private sector experience working full-time in areas within the scope of the subject matter jurisdiction of the Office of Insurance Regulation or at least 5 years of experience as a senior examiner or other senior employee of a state or federal agency having regulatory responsibility over insurers or insurance agencies.*

2. *Prior to appointment as director, the director of the Office of Financial Institutions and Securities Regulation must have had, within the previous 10 years, at least 5 years of responsible private sector experience working full-time in areas within the subject matter jurisdiction of the Office of Financial Institutions and Securities Regulation or at least 5 years of experience as a senior examiner or other senior employee of a state or federal agency having regulatory responsibility over financial institutions, finance companies, or securities companies.*

(e) **ADMINISTRATIVE SUPPORT.**—The offices shall have a sufficient number of attorneys, examiners, investigators, other professional personnel to carry out their responsibilities and administrative personnel as determined annually in the appropriations process. The Department of Financial Services shall provide administrative and information systems support to the offices.

Section 3. Transfers.—

(1) *The following programs, including the incumbent employees in the existing positions of such programs on January 6, 2003, and all property issued and assigned directly to such employees, are hereby transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes:*

(a) *From the Department of Banking and Finance to the Department of Financial Services:*

1. *The Financial Accountability for Public Funds Program.*
2. *The Comptroller and Cabinet Affairs Program.*
3. *The Bureau of Funeral and Cemetery Services.*

(b) *From the Department of Insurance to the Department of Financial Services:*

1. *The Treasury Program.*
2. *The State Fire Marshal Program.*
3. *The Risk Management Program.*
4. *The Office of Insurance Consumer Advocate.*
5. *The Division of Insurance Fraud.*
6. *The Division of Rehabilitation and Liquidation.*

7. *The Division of Agents and Agencies Services, except for those portions of the division that implement functions assigned to the Office of Insurance Regulation under s. 20.121(3)(a)1., Florida Statutes, as created by this act.*

8. *The Division of Insurance Consumer Services, which is renamed the Division of Consumer Services.*

9. *The Division of Legal Services, except for those positions whose responsibilities involve the functions assigned to the Office of Insurance Regulation.*

10. *The Division of Information Systems.*

11. *The Office of the Treasurer, the Administration Program, and the Office of the Chief of Staff of the Treasurer.*

(c) *From the Department of Banking and Finance to the Office of Financial Institutions and Securities Regulation, the Financial Institutions Regulatory Program.*

(d) From the Department of Insurance to the Office of Insurance Regulation:

1. The Division of Insurer Services.
2. Those portions of the Division of Agents and Agency Services that implement functions assigned to the Office of Insurance Regulation under s. 20.121(3)(a)1., Florida Statutes, as created by this act.
3. Those positions within the Division of Legal Services that are not transferred to the Department of Financial Services under subparagraph (b)9.

For the purposes of this section, employees transferred from the Department of Banking and Finance and the Department of Insurance to the Department of Financial Services or the Financial Services Commission shall not be considered new employees for the purpose of subjecting such employees to an employee probationary period.

(2) That portion of the Division of Workers' Compensation transferred pursuant to chapter 2002-194, Laws of Florida, to the Department of Insurance, including the incumbent employees in the existing positions of such division on January 6, 2003, and all property issued and assigned directly to such employees, are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Department of Insurance to the Department of Financial Services.

(3) The following trust funds are transferred:

(a) From the Department of Banking and Finance to the Department of Financial Services:

1. The Child Support Depository Trust Fund, FLAIR number 44-2-080.
2. The Child Support Clearing Trust Fund, FLAIR number 44-2-081.
3. The Collections Internal Revenue Clearing Trust Fund, FLAIR number 44-2-101.
4. The Consolidated Miscellaneous Deduction Clearing Trust Fund, FLAIR number 44-2-139.
5. The Consolidated Payment Trust Fund, FLAIR number 44-2-140.
6. The Electronic Funds Transfer Clearing Trust Fund, FLAIR number 44-2-188.
7. The Employee Refund Clearing Trust Fund, FLAIR number 44-2-194.
8. The Federal Tax Levy Clearing Trust Fund, FLAIR number 44-2-274.
9. The Federal Use of State Lands Trust Fund, FLAIR number 44-2-307.
10. The Florida Retirement Clearing Trust Fund, FLAIR number 44-2-323.
11. The Hospital Insurance Tax Clearing Trust Fund, FLAIR number 44-2-370.
12. The Miscellaneous Deductions Restoration Trust Fund, FLAIR number 44-2-577.
13. The Preneed Funeral Contract Consumer Protection Trust Fund, FLAIR number 44-2-536.
14. The Prison Industries Trust Fund, FLAIR number 44-2-385.
15. The Social Security Clearing Trust Fund, FLAIR number 44-2-643.
16. The Tobacco Settlement Clearing Trust Fund, FLAIR number 44-2-123.
17. The Trust Funds Trust Fund, FLAIR number 44-2-732.
18. The Unclaimed Property Trust Fund, FLAIR number 44-2-007.

19. The Working Capital Trust Fund, FLAIR number 44-2-792.

(b) From the Department of Insurance to the Department of Financial Services:

1. The Agents and Solicitors County Tax Trust Fund, FLAIR number 46-2-024.
2. The Florida Casualty Insurance Risk Management Trust Fund, FLAIR number 46-2-078.
3. The Government Employees Deferred Compensation Trust Fund, FLAIR number 46-2-155.
4. The Rehabilitation Administrative Expense Trust Fund, FLAIR number 46-2-582.
5. The Special Disability Trust Fund, FLAIR number 46-2-798.
6. The State Treasurer Escrow Trust Fund, FLAIR number 46-2-622.
7. The Treasurer's Administrative And Investment Trust Fund, FLAIR number 46-2-725.
8. The Treasury Cash Deposit Trust Fund, FLAIR number 46-2-720.
9. The Treasurer Investment Trust Fund, FLAIR number 46-2-728.
10. The Workers' Compensation Administration Trust Fund, FLAIR number 46-2-795.

(c) From the Department of Banking and Finance to the Office of Financial Institutions and Securities Regulation within the Department of Financial Services:

1. The Administrative Trust Fund, FLAIR number 44-2-021, except the moneys in fund account number 44-2-021003 are transferred from the Department of Banking and Finance to the Office of Chief Financial Officer.
2. The Anti-Fraud Trust Fund, FLAIR number 44-2-038.
3. The Comptroller's Federal Equitable Sharing Trust Fund, FLAIR number 44-2-719.
4. The Financial Institutions' Regulatory Trust Fund, FLAIR number 44-2-275.
5. The Mortgage Brokerage Guaranty Trust Fund, FLAIR number 44-2-485.
6. The Regulatory Trust Fund, FLAIR number 44-2-573.
7. The Securities Guaranty Fund, FLAIR number 44-2-626.

(d) From the Department of Insurance to the Department of Financial Services, the Insurance Commissioner's Regulatory Trust Fund, FLAIR number 46-2-393. There is created within the trust fund a subaccount for purposes of funding the Office of Insurance Regulation.

(4) The authority to make appointments to the Citizens Property Insurance Corporation shall remain with the Chief Financial Officer as provided in Committee Substitute for Senate Bill 1418 as enacted by the Legislature in the 2002 Regular Session.

(5) This section shall take effect January 7, 2003.

Section 4. (1) Effective January 7, 2003, the rules of the Department of Banking and Finance and of the Department of Insurance that were in effect on January 6, 2003, shall become rules of the Department of Financial Services or the Financial Services Commission as is appropriate to the corresponding regulatory or constitutional function and shall remain in effect until specifically amended or repealed in the manner provided by law.

Section 5. (1) This act shall not affect the validity of any judicial or administrative action involving the Department of Banking and Finance or the Department of Insurance pending on January 7, 2003, and the Department of Financial Services, or the Financial Services Commission, or the respective office, shall be substituted as a party in interest in any such action.

(2) Notwithstanding subsection (1), if the action involves the constitutional functions of the Comptroller or Treasurer, the Chief Financial Officer shall instead be substituted as a party in interest.

Section 6. *Transitional provisions.*—

(1)(a) There is created the Committee of Transition Management. The committee shall function independently but shall for administrative purposes be treated as an office of the Executive Office of the Governor.

(b) The Governor, the Comptroller, the Treasurer, the chair of the House Fiscal Responsibility Council, and the chair of the Senate Appropriations Committee shall each appoint one member to the committee.

(c) The committee shall oversee the transition to the new Department of Financial Services and the new Financial Services Commission. The management duties of the office shall include, but not be limited to:

1. Providing a written report that specifies the placement of those positions that are transferred to the Chief Financial Officer, the Department of Financial Services, and the Offices of the Financial Services Commission under this act. The committee shall provide the report to the Governor, the Cabinet, the President of the Senate, the Speaker of the House of Representatives, the chair of the House Fiscal Responsibility Council, and the chair of the Senate Appropriations Committee.

2. Submitting to the Financial Services Commission a proposed organizational plan for the commission, which plan the commission may adopt by rule.

3. Providing written recommendations to the commission, the President of the Senate, and the Speaker of the House of Representatives, by no later than February 1, 2003, as to statutory changes that are necessary or desirable to facilitate the operations of the department.

(d) The Department of Banking and Finance, the Department of Insurance, the Office of the Comptroller, and the Office of the Treasurer shall fully cooperate with the Committee of Transition Management and shall promptly provide the office with any requested information.

Section 7. Notwithstanding the provisions of ss. 216.292 and 216.351, Florida Statutes, upon approval by the Legislative Budget Committee, the Executive Office of the Governor may transfer funds and positions between agencies to implement this act.

Section 8. *Conforming legislation.*—The Legislature recognizes that there is a need to conform the Florida Statutes to the policy decisions reflected in this act and that there is a need to resolve apparent conflicts between any other legislation that has been or may be enacted during 2002 and the creation by this act of the Department of Financial Services, the Office of Insurance Regulation, the Office of Financial Institutions and Securities Regulation, and the Chief Financial Officer. Therefore, in the interim between this act becoming a law and the 2003 Regular Session of the Legislature or an earlier special session addressing this issue, the Division of Statutory Revision shall provide the relevant substantive committees of the Senate and the House of Representatives with assistance, upon request, to enable such committees to prepare draft legislation to conform the Florida Statutes and any legislation enacted during 2002 to the provisions of s. 20.121, Florida Statutes, as created by this act. It is specifically the intent of the Legislature that, until June 1, 2003, the statutory responsibility for appointments to commissions, boards, associations, councils, committees, or other collegial bodies now vested in the Comptroller, the Treasurer, the Insurance Commissioner, or the State Fire Marshal shall become the responsibility of the Chief Financial Officer.

Section 9. Effective July 1, 2002, subsection 1 of section 1. of chapter 2002-194, Laws of Florida, is amended to read:

Section 1. (1) All powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Division of Workers' Compensation are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the Department of Insurance, except as otherwise provided in this subsection, as follows: the full-time equivalent positions and the associated funding for salaries, benefits, other capital outlay, and expenses related to oversight of medical services in workers' compensation provider relations, dispute and complaint resolution, program evaluation, *data review and analysis*

data management, and review of carrier medical bill payments on issues which are jurisdictionally governed by the Agency for Health Care Administration, including, but not limited to, the duties in s. 440.13(3), (7), (8), (11)(a), (11)(c), (12), (13), and (14), Florida Statutes, are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the Agency for Health Care Administration; the full-time equivalent positions and the associated funding for salaries, benefits, other capital outlay, and expenses related to the rehabilitation and reemployment of injured workers are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the Department of Education; and the full-time equivalent positions and the associated funding for salaries, benefits, other capital outlay, and expenses related to the administration of child labor laws under chapter 450, Florida Statutes, are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the Department of Business and Professional Regulation. To the extent feasible, the positions transferred to the Department of Insurance will be reclassified to pay grades comparable to the positions established by the Department of Labor and Employment Security, based on the classification codes and specifications of the positions for work to be performed at the Department of Insurance. The number of positions the department establishes may not exceed the number of authorized positions and the salary and benefits that were authorized for the Division of Workers' Compensation within the Department of Labor and Employment Security prior to the transfer. The Department of Insurance is further authorized to reassign, reorganize, reclassify, or otherwise transfer positions to appropriate administrative subdivisions within the department and to establish such regional offices as are necessary to properly enforce and administer its responsibilities under the Florida Insurance Code and chapter 440, Florida Statutes. The department may also enter into contracts with public or private entities to administer its duties and responsibilities associated with the transfer of the Division of Workers' Compensation.

Section 10. Effective July 1, 2002, Subsections (3) and (4), paragraph (b) of subsection (5), paragraph (a) of subsection (6), paragraphs (a), (c), (d), (e), (f), (g), and (h) of subsection (7), paragraph (a) of subsection (8), paragraphs (a) and (b) of subsection (9), paragraph (f) of subsection (10), and subsection (11) of section 288.99, Florida Statutes, are amended, paragraph (i) is added to subsection (7) of said section, and subsection (17) is added to said section, to read:

288.99 Certified Capital Company Act.—

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

(a) "Affiliate of an insurance company" means:

1. Any person directly or indirectly beneficially owning, whether through rights, options, convertible interests, or otherwise, controlling, or holding power to vote 15 ~~10~~ percent or more of the outstanding voting securities or other *voting* ownership interests of the insurance company;

2. Any person 15 ~~10~~ percent or more of whose outstanding voting securities or other *voting* ownership interest is directly or indirectly beneficially owned, whether through rights, options, convertible interests, or otherwise, controlled, or held with power to vote by the insurance company;

3. Any person directly or indirectly controlling, controlled by, or under common control with the insurance company;

4. A partnership in which the insurance company is a general partner; or

5. Any person who is a principal, director, employee, or agent of the insurance company or an immediate family member of the principal, director, employee, or agent.

(b) "Certified capital" means an investment of cash by a certified investor in a certified capital company which fully funds the purchase price of either or both its equity interest in the certified capital company or a qualified debt instrument issued by the certified capital company.

(c) "Certified capital company" means a corporation, partnership, or limited liability company which:

1. Is certified by the department in accordance with this act.

2. Receives investments of certified capital *from two or more unaffiliated certified investors.*

3. Makes qualified investments as its primary activity.

(d) "Certified investor" means any insurance company subject to premium tax liability pursuant to s. 624.509 that ~~invests~~ ~~contributes~~ certified capital.

(e) "Department" means the Department of Banking and Finance.

(f) "Director" means the director of the Office of Tourism, Trade, and Economic Development.

(g) "Early stage technology business" means a qualified business that is:

1. Involved, at the time of the certified capital company's initial investment in such business, in activities related to developing initial product or service offerings, such as prototype development or the establishment of initial production or service processes; ~~The term includes a qualified business that is~~

2. Less than 2 years old and has, together with its affiliates, less than \$3 million in annual revenues for the fiscal year immediately preceding the initial investment by the certified capital company on a consolidated basis, as determined in accordance with generally accepted accounting principles; ~~The term also includes~~

3. The Florida Black Business Investment Board;;

4. Any entity *that is* majority owned by the Florida Black Business Investment Board; or

5. Any entity in which the Florida Black Business Investment Board holds a majority voting interest on the board of directors.

(h) "Office" means the Office of Tourism, Trade, and Economic Development.

(i) "Premium tax liability" means any liability incurred by an insurance company under the provisions of s. 624.509 *and* s. 624.5091.

(j) "Principal" means an executive officer of a corporation, partner of a partnership, manager of a limited liability company, or any other person with equivalent executive functions.

(k) "Qualified business" means *the Digital Divide Trust Fund established under the State of Florida Technology Office* or a business that meets the following conditions *as evidenced by documentation required by department rule*:

1. The business is headquartered in this state and its principal business operations are located in this state *or at least 75 percent of the employees are employed in the state.*

2. At the time a certified capital company makes an initial investment in a business, the business ~~would qualify for investment under~~ ~~is a small business concern as defined in~~ 13 C.F.R. s. 121.301(c) ~~121.201, "Size Standards Used to Define Small Business Concerns" of the United States Small Business Administration~~ which is involved in manufacturing, processing or assembling products, conducting research and development, or providing services.

3. At the time a certified capital company makes an initial investment in a business, the business certifies in an affidavit that:

a. The business is unable to obtain conventional financing, which means that the business has failed in an attempt to obtain funding for a loan from a bank or other commercial lender or that the business cannot reasonably be expected to qualify for such financing under the standards of commercial lending;

b. The business plan for the business projects that the business is reasonably expected to achieve in excess of \$25 million in sales revenue within 5 years after the initial investment, or the business is located in a designated Front Porch community, enterprise zone, urban high crime area, rural job tax credit county, or nationally recognized historic district;

c. The business will maintain its headquarters in this state for the next 10 years and any new manufacturing facility financed by a qualified investment will remain in this state for the next 10 years, or the business is located in a designated Front Porch community, enterprise zone, urban high crime area, rural job tax credit county, or nationally recognized historic district; and

d. The business has fewer than 200 employees and at least 75 percent of the employees are employed in this state. For purposes of this subsection, the term ~~"qualified business"~~ also includes the Florida Black Business Investment Board, any entity majority owned by the Florida Black Business Investment Board, or any entity in which the Florida Black Business Investment Board holds a majority voting interest on the board of directors.

4. *The term does not include:*

a. *Any business predominantly engaged in retail sales, real estate development, insurance, banking, lending, or oil and gas exploration.*

b. *Any business predominantly engaged in professional services provided by accountants, lawyers, or physicians.*

c. *Any company that has no historical revenues and either has no specific business plan or purpose or has indicated that its business plan is solely to engage in a merger or acquisition with any unidentified company or other entity.*

d. *Any company that has a strategic plan to grow through the acquisition of firms with substantially similar business which would result in the planned net loss of Florida-based jobs over a 12-month period after the acquisition as determined by the department.*

~~A business predominantly engaged in retail sales, real estate development, insurance, banking, lending, oil and gas exploration, or engaged in professional services provided by accountants, lawyers, or physicians does not constitute a qualified business.~~

(l) "Qualified debt instrument" means a debt instrument, or a hybrid of a debt instrument, issued by a certified capital company, at par value or a premium, with an original maturity date of at least 5 years after the date of issuance, a repayment schedule which is no faster than a level principal amortization over a 5-year period, and interest, distribution, or payment features which are not related to the profitability of the certified capital company or the performance of the certified capital company's investment portfolio.

(m) "Qualified distribution" means any distribution or payment ~~by~~ ~~to~~ ~~equity holders~~ of a certified capital company for:

1. *Reasonable costs and expenses, including, but not limited to, professional fees, of forming and; syndicating the certified capital company, if no such costs or expenses are paid to a certified investor, except as provided in subparagraph (4)(f)2., and the total cash, cash equivalents, and other current assets permitted by sub-subparagraph (5)(b)3.g. that can be converted into cash within 5 business days available to the certified capital company at the time of receipt of certified capital from certified investors, after deducting the costs and expenses of forming and syndicating the certified capital company, including any payments made over time for obligations incurred at the time of receipt of certified capital but excluding other future qualified distributions and payments made under paragraph (9)(a), are an amount equal to or greater than 50 percent of the total certified capital allocated to the certified capital pursuant to subsection (7);;*

2. *Reasonable costs of managing; and operating the certified capital company, not exceeding 5 percent of the certified capital in any single year, including an annual management fee in an amount that does not exceed 2.5 percent of the certified capital of the certified capital company; plus*

3. *Reasonable and necessary fees in accordance with industry custom for professional services, including, but not limited to, legal and accounting services, related to the operation of the certified capital company; or-*

4. ~~2.~~ *Any projected increase in federal or state taxes, including penalties and interest related to state and federal income taxes, of the equity owners of a certified capital company resulting from the earnings or*

other tax liability of the certified capital company to the extent that the increase is related to the ownership, management, or operation of a certified capital company.

(n)I. "Qualified investment" means the investment of cash by a certified capital company in a qualified business for the purchase of any debt, equity, or hybrid security of any nature and description whatsoever, including a debt instrument or security that which has the characteristics of debt but which provides for conversion into equity or equity participation instruments such as options or warrants.

2. The term does not include:

a. Any investment made after the effective date of this act the contractual terms of which require the repayment of any portion of the principal in instances, other than default as determined by department rule, within 12 months following the initial investment by the certified capital company unless such investment has a repayment schedule no faster than a level principal amortization of at least 2 years;

b. Any "follow-on" or "add-on" investment except for the amount by which the new investment is in addition to the amount of the certified capital company's initial investment returned to it other than in the form of interest, dividends, or other types of profit participation or distributions; or

c. Any investment in a qualified business or affiliate of a qualified business that exceeds 15 percent of certified capital.

(o) "Program One" means the \$150 million in premium tax credits issued under this section in 1999, the allocation of such credits under this section, and the regulation of certified capital companies and investments made by them hereunder.

(p) "Program Two" means the \$150 million in premium tax credits to be issued under subsection (17), the allocation of such credits under this section, and the regulation of certified capital companies and investments made by them hereunder.

(4) CERTIFICATION; GROUNDS FOR DENIAL OR DECERTIFICATION.—

(a) To operate as a certified capital company, a corporation, partnership, or limited liability company must be certified by the department pursuant to this act.

(b) An applicant for certification as a certified capital company must file a verified application with the department on or before December 1, 1998, a date determined in rules adopted pursuant to subsection (17) in the case of applicants for Program Two, in a form which the department may prescribe by rule. The applicant shall submit a nonrefundable application fee of \$7,500 to the department. The applicant shall provide:

1. The name of the applicant and the address of its principal office and each office in this state.

2. The applicant's form and place of organization and the relevant organizational documents, bylaws, and amendments or restatements of such documents, bylaws, or amendments.

3. Evidence from the Department of State that the applicant is registered with the Department of State as required by law, maintains an active status with the Department of State, and has not been dissolved or had its registration revoked, canceled, or withdrawn.

4. The applicant's proposed method of doing business.

5. The applicant's financial condition and history, including an audit report on the financial statements prepared in accordance with generally accepted accounting principles. *The applicant must have, at the time of application for certification, an equity capitalization of at least \$500,000 in the form of cash or cash equivalents. The applicant must maintain this equity capitalization until the applicant receives an allocation of certified capital pursuant to this act showing net capital of not less than \$500,000 within 90 days after the date the application is submitted to the department.* If the date of the application is more than 90 days after preparation of the applicant's fiscal year-end financial statements, the applicant may file financial statements reviewed by an independent certified public accountant for the period subsequent to the audit report,

together with the audited financial statement for the most recent fiscal year. If the applicant has been in business less than 12 months, and has not prepared an audited financial statement, the applicant may file a financial statement reviewed by an independent certified public accountant.

6. Copies of any offering materials used or proposed to be used by the applicant in soliciting investments of certified capital from certified investors.

(c) ~~Within 60 days after receipt of a verified application~~ ~~On December 31, 1998,~~ the department shall grant or deny certification as a certified capital company. If the department denies certification within the time period specified, the department shall inform the applicant of the grounds for the denial. If the department has not granted or denied certification within the time specified, the application shall be deemed approved. The department shall approve the application if the department finds that:

1. The applicant satisfies the requirements of paragraph (b).

2. No evidence exists that the applicant has committed any act specified in paragraph (d).

3. At least two of the principals have a minimum of 5 years of experience making venture capital investments out of private equity funds, with not less than \$20 million being provided by third-party investors for investment in the early stage of operating businesses. At least one full-time manager or principal of the certified capital company who has such experience must be primarily located in an office of the certified capital company which is based in this state.

4. The applicant's proposed method of doing business and raising certified capital as described in its offering materials and other materials submitted to the department conforms with the requirements of this section.

(d) The department may deny certification or decertify a certified capital company if the grounds for decertification are not removed or corrected within 90 days after the notice of such grounds is received by the certified capital company. The department may deny certification or decertify a certified capital company if the certified capital company fails to maintain *common stock or paid in capital a net worth* of at least \$500,000, or if the department determines that the applicant, or any principal or director of the certified capital company, has:

1. Violated any provision of this section;

2. Made a material misrepresentation or false statement or concealed any essential or material fact from any person during the application process or with respect to information and reports required of certified capital companies under this section;

3. Been convicted of, or entered a plea of guilty or nolo contendere to, a crime against the laws of this state or any other state or of the United States or any other country or government, including a fraudulent act in connection with the operation of a certified capital company, or in connection with the performance of fiduciary duties in another capacity;

4. Been adjudicated liable in a civil action on grounds of fraud, embezzlement, misrepresentation, or deceit; or

5.a. Been the subject of any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, or administrative order by any court of competent jurisdiction, administrative law judge, or any state or federal agency, national securities, commodities, or option exchange, or national securities, commodities, or option association, involving a material violation of any federal or state securities or commodities law or any rule or regulation adopted under such law, or any rule or regulation of any national securities, commodities, or options exchange, or national securities, commodities, or options association; or

b. Been the subject of any injunction or adverse administrative order by a state or federal agency regulating banking, insurance, finance or small loan companies, real estate, mortgage brokers, or other related or similar industries.

~~(e) The certified capital company shall file a copy of its certification with the office by January 31, 1999.~~

(e)(f) Any offering material involving the sale of securities of the certified capital company shall include the following statement: "By authorizing the formation of a certified capital company, the State of Florida does not endorse the quality of management or the potential for earnings of such company and is not liable for damages or losses to a certified investor in the company. Use of the word 'certified' in an offering does not constitute a recommendation or endorsement of the investment by the State of Florida. Investments in a certified capital company prior to the time such company is certified are not eligible for premium tax credits. If applicable provisions of law are violated, the state may require forfeiture of unused premium tax credits and repayment of used premium tax credits by the certified investor."

(f)1.(g) No insurance company or any affiliate of an insurance company shall, directly or indirectly, *own, whether through rights, options, convertible interests, or otherwise, 15 percent or more of the voting equity interests of or manage or control the direction of investments of a certified capital company.* This prohibition does not preclude a certified investor, insurance company, or any other party from exercising its legal rights and remedies, which may include interim management of a certified capital company, if a certified capital company is in default of its obligations under law or its contractual obligations to such certified investor, insurance company, or other party. *Nothing in this subparagraph shall limit an insurance company's ownership of nonvoting equity interests in a certified capital company.*

2. *A certified capital company may obtain a guaranty, indemnity, bond, insurance policy or other payment undertaking in favor of all of the certified investors of the certified capital company and its affiliates; provided that the entity from which such guaranty, indemnity, bond, insurance policy or other payment undertaking is obtained may not be a certified investor of, or be affiliated with more than one certified investor of, the certified capital company.*

(g)(h) On or before December 31 of each year, each certified capital company shall pay to the department an annual, nonrefundable renewal certification fee of \$5,000. *If a certified capital company fails to pay its renewal fee by the specified deadline, the company must pay a late fee of \$5,000 in addition to the renewal fee on or by January 31 of each year in order to continue its certification in the program. On or before April 30 of each year, each certified capital company shall file audited financial statements with the department.* No renewal fees shall be required within 6 months after the date of initial certification.

(h)(i) The department shall administer and provide for the enforcement of certification requirements for certified capital companies as provided in this act. The department may adopt any rules necessary to carry out its duties, obligations, and powers related to certification, renewal of certification, or decertification of certified capital companies and may perform any other acts necessary for the proper administration and enforcement of such duties, obligations, and powers.

(i)(j) Decertification of a certified capital company under this subsection does not affect the ability of certified investors in such certified capital company from claiming future premium tax credits earned as a result of an investment in the certified capital company during the period in which it was duly certified.

(5) INVESTMENTS BY CERTIFIED CAPITAL COMPANIES.—

(b) All capital not invested in qualified investments by the certified capital company:

1. Must be held in a financial institution as defined by s. 655.005(1)(h) or held by a broker-dealer registered under s. 517.12, *except as set forth in sub-subparagraph 3.g.*

2. Must not be invested in a certified investor of the certified capital company or any affiliate of the certified investor of the certified capital company, *except for an investment permitted by sub-subparagraph 3.g., provided repayment terms do not permit the obligor to directly or indirectly manage or control the investment decisions of the certified capital company.*

3. Must be invested only in:

a. Any United States Treasury obligations;

b. Certificates of deposit or other obligations, maturing within 3 years after acquisition of such certificates or obligations, issued by any

financial institution or trust company incorporated under the laws of the United States;

c. Marketable obligations, maturing within 10 ½ years or less after the acquisition of such obligations, which are rated "A" or better by any nationally recognized credit rating agency;

d. Mortgage-backed securities, with an average life of 5 years or less, after the acquisition of such securities, which are rated "A" or better by any nationally recognized credit rating agency;

e. Collateralized mortgage obligations and real estate mortgage investment conduits that are direct obligations of an agency of the United States Government; are not private-label issues; are in book-entry form; and do not include the classes of interest only, principal only, residual, or zero; or

f. Interests in money market funds, the portfolio of which is limited to cash and obligations described in sub-subparagraphs a.-d., or

g. *Obligations that are issued by an insurance company that is not a certified investor of the certified capital company making the investment, that has provided a guaranty indemnity bond, insurance policy, or other payment undertaking in favor of the certified capital company's certified investors as permitted by subparagraph (3)(m)1. or an affiliate of such insurance company as defined by subparagraph (3)(a)3. that is not a certified investor of the certified capital company making the investment, provided that such obligations are:*

(I) *Issued or guaranteed as to principal by an entity whose senior debt is rated "AA" or better by Standard & Poor's Ratings Group or such other nationally recognized credit rating agency as the department may by rule determine.*

(II) *Not subordinated to other unsecured indebtedness of the issuer or the guarantor.*

(III) *Invested by such issuing entity in accordance with sub-subparagraphs 3.a.-f.*

(IV) *Readily convertible into cash within 5 business days for the purpose of making a qualified investment unless such obligations are held to provide a guaranty, indemnity bond, insurance policy, or other payment undertaking in favor of the certified capital company's certified investors as permitted by subparagraph (3)(m)1.*

(6) PREMIUM TAX CREDIT; AMOUNT; LIMITATIONS.—

(a) Any certified investor who makes an investment of certified capital shall earn a vested credit against premium tax liability equal to 100 percent of the certified capital invested by the certified investor. Certified investors shall be entitled to use no more than 10 percentage points of the vested premium tax credit *earned under a particular program*, including any carryforward credits *from such program* under this act, per year beginning with premium tax filings for calendar year 2000 *for credits earned under Program One.* Any premium tax credits not used by certified investors in any single year may be carried forward and applied against the premium tax liabilities of such investors for subsequent calendar years. ~~The carryforward credit may be applied against subsequent premium tax filings through calendar year 2017.~~

(7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION PROCESS.—

(a) The total amount of tax credits which may be allocated by the office shall not exceed \$150 million *with respect to Program One and \$150 million with respect to Program Two.* The total amount of tax credits which may be used by certified investors under this act shall not exceed \$15 million annually *with respect to credits earned under Program One and \$15 million annually with respect to credits earned under Program Two.*

(c) Each certified capital company must apply to the office for an allocation of premium tax credits for potential certified investors ~~by March 15, 1999~~, on a form developed by the office with the cooperation of the Department of Revenue. The form shall be accompanied by an affidavit from each potential certified investor confirming that the potential certified investor has agreed to make an investment of certified capital in a certified capital company up to a specified amount, subject

only to the receipt of a premium tax credit allocation pursuant to this subsection. *No certified capital company shall submit premium tax allocation claims on behalf of certified investors that in the aggregate would exceed the total dollar amount appropriated by the Legislature for the specific program.* No allocation shall be made to the potential investors of a certified capital company *under Program Two* unless such certified capital company has filed premium tax allocation claims ~~that would result in an allocation to the potential investors in such certified capital company~~ of not less than \$15 million in the aggregate.

(d) ~~On or before April 1, 1999,~~ The office shall inform each certified capital company of its share of total premium tax credits available for allocation to each of its potential investors.

(e) If a certified capital company does not receive certified capital equaling the amount of premium tax credits allocated to a potential certified investor for which the investor filed a premium tax allocation claim within 10 business days after the investor received a notice of allocation, the certified capital company shall notify the office by overnight common carrier delivery service of the company's failure to receive the capital. That portion of the premium tax credits allocated to the certified capital company shall be forfeited. If the office must make a pro rata allocation under paragraph (f), the office shall reallocate such available credits among the other certified capital companies on the same pro rata basis as the initial allocation.

(f) If the total amount of capital committed by all certified investors to certified capital companies in premium tax allocation claims *under Program Two* exceeds the aggregate cap on the amount of credits that may be awarded *under Program Two*, the premium tax credits that may be allowed to any one certified investor *under Program Two* shall be allocated using the following ratio:

$$A/B = X/>>$150,000,000$$

where the letter "A" represents the total amount of certified capital certified investors have agreed to invest in any one certified capital company *under Program Two*, the letter "B" represents the aggregate amount of certified capital that all certified investors have agreed to invest in all certified capital companies *under Program Two*, the letter "X" is the numerator and represents the total amount of premium tax credits and certified capital that may be allocated to a certified capital company *on a date determined by rule adopted by the department pursuant to subsection (17) in calendar year 1999*, and \$150 million is the denominator and represents the total amount of premium tax credits and certified capital that may be allocated to all certified investors *under Program Two in calendar year 1999*. Any such premium tax credits are not first available for utilization until annual filings are made in 2001 for calendar year 2000 *in the case of Program One*, and the tax credits may be used at a rate not to exceed 10 percent annually *per program*.

(g) The maximum amount of certified capital for which premium tax allocation claims may be filed on behalf of any certified investor and its affiliates by one or more certified capital companies may not exceed \$15 million *for Program One* and \$22.5 million *for Program Two*.

(h) To the extent that less than \$150 million in certified capital is raised in connection with the procedure set forth in paragraphs (c)-(g), the department may adopt rules to allow a subsequent allocation of the remaining premium tax credits authorized under this section.

(i) *The office shall issue a certification letter for each certified investor, showing the amount invested in the certified capital company under each program. The applicable certified capital company shall attest to the validity of the certification letter.*

(8) ANNUAL TAX CREDIT; CLAIM PROCESS.—

(a) On an annual basis, on or before ~~January~~ *December* 31, each certified capital company shall file with the department and the office, in consultation with the department, on a form prescribed by the office, for each calendar year:

1. The total dollar amount the certified capital company received from certified investors, the identity of the certified investors, and the amount received from each certified investor during the *immediately preceding* calendar year.

2. The total dollar amount the certified capital company invested and the amount invested in qualified businesses, together with the iden-

tity and location of those businesses and the amount invested in each qualified business *during the immediately preceding calendar year.*

3. For informational purposes only, the total number of permanent, full-time jobs either created or retained by the qualified business during the *immediately preceding* calendar year, the average wage of the jobs created or retained, the industry sectors in which the qualified businesses operate, and any additional capital invested in qualified businesses from sources other than certified capital companies.

(9) REQUIREMENT FOR 100 PERCENT INVESTMENT; STATE PARTICIPATION.—

(a) A certified capital company may make qualified distributions at any time. In order to make a distribution to its equity holders, other than a qualified distribution *from funds related to a particular program*, a certified capital company must have invested an amount cumulatively equal to 100 percent of its certified capital *raised under such program* in qualified investments. Payments to debt holders of a certified capital company, however, may be made without restriction with respect to repayments of principal and interest on indebtedness owed to them by a certified capital company, including indebtedness of the certified capital company on which certified investors earned premium tax credits. A debt holder that is also a certified investor or equity holder of a certified capital company may receive payments with respect to such debt without restrictions.

(b) Cumulative distributions from a certified capital company *from funds related to a particular program* to its certified investors and equity holders *under such program*, other than qualified distributions, in excess of the certified capital company's original certified capital *raised under such program* and any additional capital contributions to the certified capital company *with respect to such program* may be audited by a nationally recognized certified public accounting firm acceptable to the department, at the expense of the certified capital company, if the department directs such audit be conducted. The audit shall determine whether aggregate cumulative distributions from the *funds related to a particular program made by the certified capital company* to all certified investors and equity holders *under such program*, other than qualified distributions, have equaled the sum of the certified capital company's original certified capital *raised under such program* and any additional capital contributions to the certified capital company *with respect to such program*. If at the time of any such distribution made by the certified capital company, such distribution taken together with all other such distributions *from the funds related to such program* made by the certified capital company, other than qualified distributions, exceeds in the aggregate the sum of the certified capital company's original certified capital *raised under such program* and any additional capital contributions to the certified capital company *with respect to such program*, as determined by the audit, the certified capital company shall pay to the Department of Revenue 10 percent of the portion of such distribution in excess of such amount. Payments to the Department of Revenue by a certified capital company pursuant to this paragraph shall not exceed the aggregate amount of tax credits used by all certified investors in such certified capital company *for such program*.

(10) DECERTIFICATION.—

(f) Decertification of a certified capital company for failure to meet all requirements for continued certification under paragraph (5)(a) *with respect to the certified capital raised under a particular program* may cause the recapture of premium tax credits previously claimed by such company *under such program* and the forfeiture of future premium tax credits to be claimed by certified investors *under such program* with respect to such certified capital company, as follows:

1. Decertification of a certified capital company within 3 years after its certification date *with respect to a particular program* shall cause the recapture of all premium tax credits *earned under such program* and previously claimed by such company and the forfeiture of all future premium tax credits *earned under such program* which are to be claimed by certified investors with respect to such company.

2. When a certified capital company meets all requirements for continued certification under subparagraph (5)(a)1. *with respect to certified capital raised under a particular program* and subsequently fails to meet the requirements for continued certification under the provisions of subparagraph (5)(a)2. *with respect to certified capital raised under such program*, those premium tax credits *earned under such program*

which have been or will be taken by certified investors within 3 years after the certification date of the certified capital company *with respect to such program* shall not be subject to recapture or forfeiture; however, all premium tax credits *earned under such program* that have been or will be taken by certified investors after the third anniversary of the certification date of the certified capital company *for such program* shall be subject to recapture or forfeiture.

3. When a certified capital company meets all requirements for continued certification under subparagraphs (5)(a)1. and 2. *with respect to a particular program* and subsequently fails to meet the requirements for continued certification under the subparagraph (5)(a)3. *with respect to such program*, those premium tax credits *earned under such program* which have been or will be taken by certified investors within 4 years after the certification date of the certified capital company *with respect to such program* shall not be subject to recapture or forfeiture; however, all premium tax credits *earned under such program* that have been or will be taken by certified investors after the fourth anniversary of the certification date of the certified capital company *with respect to such program* shall be subject to recapture and forfeiture.

4. If a certified capital company has met all requirements for continued certification under paragraph (5)(a) *with respect to certified capital raised under a particular program*, but such company is subsequently decertified, those premium tax credits *earned under such program* which have been or will be taken by certified investors within 5 years after the certification date of such company *with respect to such program* shall not be subject to recapture or forfeiture. Those premium tax credits *earned under such program* to be taken subsequent to the 5th year of certification *with respect to such program* shall be subject to forfeiture only if the certified capital company is decertified within 5 years after its certification date *with respect to such program*.

5. If a certified capital company has invested an amount cumulatively equal to 100 percent of its certified capital *raised under a particular program* in qualified investments, all premium tax credits claimed or to be claimed by its certified investors *under such program* shall not be subject to recapture or forfeiture.

(11) TRANSFERABILITY.—*The premium tax credit established pursuant to this act may be transferred or sold. The Department of Revenue shall adopt rules to facilitate the transfer or sale of such premium tax credits. A transfer or sale shall not affect the time schedule for taking the premium tax credit as provided in this act. Any premium tax credits recaptured shall be the liability of the taxpayer who actually claimed the premium tax credits. The claim of a transferee of a certified investor's unused premium tax credit shall be permitted in the same manner and subject to the same provisions and limitations of this act as the original certified investor. The term "transferee" means any person who:*

(a) ~~Through the voluntary sale, assignment, or other transfer of the business or control of the business of the certified investor, including the sale or other transfer of stock or assets by merger, consolidation, or dissolution, succeeds to all or substantially all of the business and property of the certified investor;~~

(b) ~~Becomes by operation of law or otherwise the parent company of the certified investor;~~

(c) ~~Directly or indirectly owns, whether through rights, options, convertible interests, or otherwise, controls, or holds power to vote 10 percent or more of the outstanding voting securities or other ownership interest of the certified investor;~~

(d) ~~Is a subsidiary of the certified investor or 10 percent or more of whose outstanding voting securities or other ownership interest are directly or indirectly owned, whether through rights, options, convertible interests, or otherwise, by the certified investor; or~~

(e) ~~Directly or indirectly controls, is controlled by, or is under the common control with the certified investor.~~

Section 11. *Except as otherwise specifically provided in this act, the provisions of this act shall apply only to "Program Two" as defined in s. 288.99(3), Florida Statutes, as amended by this act.*

(17) *Notwithstanding the limitations set forth in paragraph (7)(a), in the first fiscal year in which the total insurance premium tax collections as determined by the Revenue Estimating Conference exceed collections*

for fiscal year 2000-2001 by more than the total amount of tax credits issued pursuant to this section which were used by certified investors in that year, the office may allocate to certified investors in accordance with paragraph (7)(a) tax credits for Program Two. The department shall establish, by rule, a date and procedures by which certified capital companies must file applications for allocations of such additional premium tax credits, which date shall be no later than 180 days from the date of determination by the Revenue Estimating Conference. With respect to new certified capital invested and premium tax credits earned pursuant to this subsection, the schedule specified in subparagraphs (5)(a)1.-4. is satisfied by investments by December 31 of the 2nd, 3rd, 4th, and 5th calendar year, respectively, after the date established by the department for applications of additional premium tax credits. The department shall adopt rules by which an entity not already certified as a certified capital company may apply for certification as a certified capital company for participation in this additional allocation. The insurance premium tax credit authorized by Program Two may not be used by certified investors until the annual return due March 1, 2004, and may be used on all subsequent returns and estimated payments; however, notwithstanding the provisions of s. 624.5092(2)(b), the installments of taxes due and payable on April 15, 2004, and June 15, 2004, shall be based on the net tax due in 2003 not taking into account credits granted pursuant to this section for Program Two.

Section 12. Subsection (20) is added to section 517.12, Florida Statutes, to read:

517.12 Registration of dealers, associated persons, investment advisers, and branch offices.—

(20) *Subject to approval of the Chief Financial Officer, the registration requirements of this section do not apply to individuals licensed under s. 626.041 or its successor statute, or s. 626.051 or its successor statute, for the sale of a security as defined in s. 517.021(19)(g), if the individual is directly authorized by the issuer to offer or sell the security on behalf of the issuer and the issuer is a federally chartered savings bank subject to regulation by the Federal Deposit Insurance Corporation.*

Section 13. Subsection (21) of section 570.07, Florida Statutes, is amended to read:

570.07 Department of Agriculture and Consumer Services; functions, powers, and duties.—*The department shall have and exercise the following functions, powers, and duties:*

(21) *To declare an emergency when one exists in any matter pertaining to agriculture; to make, adopt, and promulgate rules and issue orders which will be effective during the term of the emergency; and to issue or require to be issued food safety information, pertaining to the emergency, that is based on reliable scientific facts and reliable scientific data. When the Commissioner of Agriculture has declared an agricultural emergency, no county or municipal ordinance relating to any action intended to end the emergency shall be enforced within a county or municipality with respect to such action taken by the Department of Agriculture and Consumer Services during the agricultural emergency.*

Section 14. Paragraph (b) of subsection (4), paragraph (a) of subsection (5), and paragraphs (a) and (c) of subsection (6) of section 624.91, Florida Statutes, as amended by section 20 of chapter 2001-377, Laws of Florida, are amended to read:

624.91 The Florida Healthy Kids Corporation Act.—

(4) CORPORATION AUTHORIZATION, DUTIES, POWERS.—

(b) The Florida Healthy Kids Corporation shall phase in a program to:

1. Organize school children groups to facilitate the provision of comprehensive health insurance coverage to children;

2. Arrange for the collection of any family, local contributions, or employer payment or premium, in an amount to be determined by the board of directors, to provide for payment of premiums for comprehensive insurance coverage and for the actual or estimated administrative expenses;

3. Establish the administrative and accounting procedures for the operation of the corporation;

4. Establish, with consultation from appropriate professional organizations, standards for preventive health services and providers and comprehensive insurance benefits appropriate to children; provided that such standards for rural areas shall not limit primary care providers to board-certified pediatricians;

5. Establish eligibility criteria which children must meet in order to participate in the program;

6. Establish procedures under which applicants to and participants in the program may have grievances reviewed by an impartial body and reported to the board of directors of the corporation;

7. Establish participation criteria and, if appropriate, contract with an authorized insurer, health maintenance organization, or insurance administrator to provide administrative services to the corporation;

8. Establish enrollment criteria which shall include penalties or waiting periods of not fewer than 60 days for reinstatement of coverage upon voluntary cancellation for nonpayment of family premiums;

9. If a space is available, establish a special open enrollment period of 30 days' duration for any child who is enrolled in Medicaid or Medikids if such child loses Medicaid or Medikids eligibility and becomes eligible for the Florida Healthy Kids program;

10. Contract with authorized insurers or any provider of health care services, meeting standards established by the corporation, for the provision of comprehensive insurance coverage to participants. Such standards shall include criteria under which the corporation may contract with more than one provider of health care services in program sites. Health plans shall be selected through a competitive bid process. The selection of health plans shall be based primarily on quality criteria established by the board. The health plan selection criteria and scoring system, and the scoring results, shall be available upon request for inspection after the bids have been awarded;

11. Develop and implement a plan to publicize the Florida Healthy Kids Corporation, the eligibility requirements of the program, and the procedures for enrollment in the program and to maintain public awareness of the corporation and the program;

12. Secure staff necessary to properly administer the corporation. Staff costs shall be funded from state and local matching funds and such other private or public funds as become available. The board of directors shall determine the number of staff members necessary to administer the corporation;

13. As appropriate, enter into contracts with local school boards or other agencies to provide onsite information, enrollment, and other services necessary to the operation of the corporation;

14. Provide a report *annually* ~~on an annual basis~~ to the Governor, Chief Financial Officer ~~Insurance Commissioner~~, Commissioner of Education, Senate President, Speaker of the House of Representatives, and Minority Leaders of the Senate and the House of Representatives;

15. Each fiscal year, establish a maximum number of participants by county, on a statewide basis, who may enroll in the program without the benefit of local matching funds. Thereafter, the corporation may establish local matching requirements for supplemental participation in the program. The corporation may vary local matching requirements and enrollment by county depending on factors which may influence the generation of local match, including, but not limited to, population density, per capita income, existing local tax effort, and other factors. The corporation also may accept in-kind match in lieu of cash for the local match requirement to the extent allowed by Title XXI of the Social Security Act; and

16. Establish eligibility criteria, premium and cost-sharing requirements, and benefit packages which conform to the provisions of the Florida Kidcare program, as created in ss. 409.810-409.820; and

17. Notwithstanding the requirements of subparagraph 15. to the contrary, establish a local matching requirement of \$0.00 for the Title XXI program in each county of the state for the 2001-2002 fiscal year. This subparagraph shall take effect upon becoming a law and shall operate retroactively to July 1, 2001. This subparagraph expires July 1, 2002.

(5) BOARD OF DIRECTORS.—

(a) The Florida Healthy Kids Corporation shall operate subject to the supervision and approval of a board of directors chaired by the *Chief Financial Officer* ~~Insurance Commissioner~~ or her or his designee, and composed of ~~14~~ 12 other members selected for 3-year terms of office as follows:

1. One member appointed by the Commissioner of Education from among three persons nominated by the Florida Association of School Administrators;

2. One member appointed by the Commissioner of Education from among three persons nominated by the Florida Association of School Boards;

3. One member appointed by the Commissioner of Education from the Office of School Health Programs of the Florida Department of Education;

4. One member appointed by the Governor from among three members nominated by the Florida Pediatric Society;

5. One member, appointed by the Governor, who represents the Children's Medical Services Program;

6. One member appointed by the *Chief Financial Officer* ~~Insurance Commissioner~~ from among three members nominated by the Florida Hospital Association;

7. Two members, appointed by the *Chief Financial Officer* ~~Insurance Commissioner~~, who are representatives of authorized health care insurers or health maintenance organizations;

8. One member, appointed by the *Chief Financial Officer* ~~Insurance Commissioner~~, who represents the Institute for Child Health Policy;

9. One member, appointed by the Governor, from among three members nominated by the Florida Academy of Family Physicians;

10. One member, appointed by the Governor, who represents the Agency for Health Care Administration; ~~and~~

11. *One member, appointed by the Chief Financial Officer, from among three members nominated by the Florida Association of Counties, representing rural counties;*

12. *One member, appointed by the Governor, from among three members nominated by the Florida Association of Counties, representing urban counties; and*

~~13.14.~~ The State Health Officer or her or his designee.

(6) LICENSING NOT REQUIRED; FISCAL OPERATION.—

(a) The corporation shall not be deemed an insurer. The officers, directors, and employees of the corporation shall not be deemed to be agents of an insurer. Neither the corporation nor any officer, director, or employee of the corporation is subject to the licensing requirements of the insurance code or the rules of the Department of *Financial Services* ~~Insurance~~. However, any marketing representative utilized and compensated by the corporation must be appointed as a representative of the insurers or health services providers with which the corporation contracts.

(c) The Department of *Financial Services* ~~Insurance~~ shall supervise any liquidation or dissolution of the corporation and shall have, with respect to such liquidation or dissolution, all power granted to it pursuant to the insurance code.

Section 15. Sections 633.801, 633.802, 633.803, 633.804, 633.805, 633.806, 633.807, 633.808, 633.809, 633.810, 633.811, 633.812, 633.813, 633.814, 633.815, 633.816, 633.817, 633.818, 633.819, 633.820, and 633.821, Florida Statutes, are created to read:

633.801 Short title.—Sections 633.801-633.821 may be cited as the "Florida Firefighters Occupational Safety and Health Act."

633.802 Definitions.—Unless the context clearly requires otherwise, the following definitions shall apply to ss. 633.801-633.821:

- (1) "Department" means the Department of Insurance.
- (2) "Division" means the Division of State Fire Marshal of the department.
- (3) "Firefighter employee" means any person engaged in any employment, public or private, as a firefighter under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, responding to or assisting with fire or medical emergencies, whether or not the firefighter is on duty, except those appointed under s. 590.02(1)(d).
- (4) "Firefighter employer" means the state and all political subdivisions of this state, all public and quasi-public corporations in this state, and every person carrying on any employment for this state, political subdivisions of this state, and public and quasi-public corporations in this state which employs firefighters, except those appointed under s. 590.02(1)(d).
- (5) "Firefighter employment" or "employment" means any service performed by a firefighter employee for the firefighter employer.
- (6) "Firefighter place of employment" or "place of employment" means the physical location at which the firefighter is employed.

633.803 *Legislative intent.*—It is the intent of the Legislature to enhance firefighter occupational safety and health in the state through the implementation and maintenance of policies, procedures, practices, rules, and standards that reduce the incidence of firefighter employee accidents, firefighter employee occupational diseases, and firefighter employee fatalities compensable under chapter 440 or otherwise. The Legislature further intends that the division develop a means by which the division can identify individual firefighter employers with a high frequency or severity of work-related injuries, conduct safety inspections of those firefighter employers, and assist those firefighter employers in the development and implementation of firefighter employee safety and health programs. In addition, it is the intent of the Legislature that the division administer the provisions of ss. 633.801-633.821; provide assistance to firefighter employers, firefighter employees, and insurers; and enforce the policies, rules, and standards set forth in ss. 633.801-633.821.

633.804 *Safety inspections and consultations; rules.*—The division shall adopt rules governing the manner, means, and frequency of firefighter employer and firefighter employee safety inspections and consultations by all insurers and self-insurers.

633.805 *Division to make study of firefighter employee occupational diseases.*—The division shall make a continuous study of firefighter employee occupational diseases and the ways and means for their control and prevention and shall adopt rules necessary for such control and prevention. For this purpose, the division is authorized to cooperate with firefighter employers, firefighter employees, and insurers and with the Department of Health.

633.806 *Investigations by the division; refusal to admit; penalty.*—

(1) The division shall make studies and investigations with respect to safety provisions and the causes of firefighter employee injuries in firefighter employee places of employment and shall make such recommendations to the Legislature and firefighter employers and insurers as the division considers proper as to the best means of preventing firefighter injuries. In making such studies and investigations, the division may cooperate with any agency of the United States charged with the duty of enforcing any law securing safety against injury in any place of firefighter employment covered by ss. 633.801-633.821 or any agency or department of the state engaged in enforcing any law to ensure safety for firefighter employees.

(2) The division by rule may adopt procedures for conducting investigations of firefighter employers under ss. 633.801-633.821.

633.807 *Safety; firefighter employer responsibilities.*—Every firefighter employer shall furnish and use safety devices and safeguards, adopt and use methods and processes reasonably adequate to render such an employment and place of employment safe, and do every other thing reasonably necessary to protect the lives, health, and safety of such firefighter employees. As used in this section, the terms "safe" and "safety," as applied to any employment or place of firefighter employment, mean such freedom from danger as is reasonably necessary for the protection

of the lives, health, and safety of firefighter employees, including conditions and methods of sanitation and hygiene. Safety devices and safeguards required to be furnished by the firefighter employer by this section or by the division under authority of this section shall not include personal apparel and protective devices that replace personal apparel normally worn by firefighter employees during regular working hours.

633.808 *Division authority.*—The division shall:

(1) Investigate and prescribe by rule what safety devices, safeguards, or other means of protection must be adopted for the prevention of accidents in every firefighter employee place of employment or at any fire scene; determine what suitable devices, safeguards, or other means of protection for the prevention of occupational diseases must be adopted or followed in any or all such firefighter places of employment or at any fire scene; and adopt reasonable rules for the prevention of accidents, the safety, protection, and security of firefighter employees engaged in interior firefighting, and the prevention of occupational diseases.

(2) Ascertain, fix, and order such reasonable standards and rules for the construction, repair, and maintenance of firefighter employee places of employment as shall render them safe. Such rules and standards shall be adopted in accordance with chapter 120.

(3) Assist firefighter employers in the development and implementation of firefighter employee safety training programs by contracting with professional safety organizations.

(4) Adopt rules prescribing recordkeeping responsibilities for firefighter employers, which may include maintaining a log and summary of occupational injuries, diseases, and illnesses, for producing on request a notice of injury and firefighter employee accident investigation records, and prescribing a retention schedule for such records.

633.809 *Firefighter employers whose firefighter employees have a high frequency of work-related injuries.*—The division shall develop a means by which the division may identify individual firefighter employers whose firefighter employees have a high frequency or severity of work-related injuries. The division shall carry out safety inspections of the facilities and operations of those firefighter employers in order to assist them in reducing the frequency and severity of work-related injuries. The division shall develop safety and health programs for those firefighter employers. Insurers shall distribute such safety and health programs to the firefighter employers so identified by the division. Those firefighter employers identified by the division as having a high frequency or severity of work-related injuries shall implement a safety and health program developed by the division. The division shall carry out safety inspections of those firefighter employers so identified to ensure compliance with the safety and health program and to assist such firefighter employers in reducing the number of work-related injuries. The division may not assess penalties as a result of such inspections, except as provided by s. 633.813. Copies of any report made as the result of such an inspection shall be provided to the firefighter employer and its insurer. Firefighter employers may submit their own safety and health programs to the division for approval in lieu of using the safety and health program developed by the division. The division shall promptly review the program submitted and approve or disapprove the program within 60 days or such program shall be deemed approved. Upon approval by the division, the program shall be implemented by the firefighter employer. If the program is not approved or if a program is not submitted, the firefighter employer shall implement the program developed by the division. The division shall adopt rules setting forth the criteria for safety and health programs, as such rules relate to this section.

633.810 *Workplace safety committees and safety coordinators.*—

(1) In order to promote health and safety in firefighter employee places of employment in this state:

(a) Each firefighter employer of 20 or more firefighter employees shall establish and administer a workplace safety committee in accordance with rules adopted under this section.

(b) Each firefighter employer of fewer than 20 firefighter employees identified by the division as having high frequency or high severity of work-related injuries shall establish and administer a workplace safety committee or designate a workplace safety coordinator who shall establish and administer workplace safety activities in accordance with rules adopted under this section.

(2) *The division shall adopt rules:*

(a) *Prescribing the membership of the workplace safety committees so as to ensure an equal number of firefighter employee representatives who are volunteers or are elected by their peers and firefighter employer representatives, and specifying the frequency of meetings.*

(b) *Requiring firefighter employers to make adequate records of each meeting and to file and to maintain the records subject to inspection by the division.*

(c) *Prescribing the duties and functions of the workplace safety committee and workplace safety coordinator, which include, but are not limited to:*

1. *Establishing procedures for workplace safety inspections by the committee.*

2. *Establishing procedures for investigating all workplace accidents, safety-related incidents, illnesses, and deaths.*

3. *Evaluating accident prevention and illness prevention programs.*

4. *Prescribing guidelines for the training of safety committee members.*

(3) *The composition, selection, and function of workplace safety committees shall be a mandatory topic of negotiations with any certified collective bargaining agent for firefighter employers that operate under a collective bargaining agreement. Firefighter employers that operate under a collective bargaining agreement that contains provisions regulating the formation and operation of workplace safety committees that meet or exceed the minimum requirements contained in this section, or firefighter employers who otherwise have existing workplace safety committees that meet or exceed the minimum requirements established by this section, are in compliance with this section.*

(4) *Firefighter employees shall be compensated their regular hourly wage while engaged in workplace safety committee or workplace safety coordinator training, meetings, or other duties prescribed under this section.*

633.811 *Firefighter employer penalties.—If any firefighter employer violates or fails or refuses to comply with ss. 633.801-633.821, or with any rule adopted by the division under such sections in accordance with chapter 120 for the prevention of injuries, accidents, or occupational diseases or with any lawful order of the division in connection with ss. 633.801-633.821, or fails or refuses to furnish or adopt any safety device, safeguard, or other means of protection prescribed by division rule under ss. 633.801-633.821 for the prevention of accidents or occupational diseases, the division may assess against the firefighter employer a civil penalty of not less than \$100 nor more than \$5,000 for each day the violation, omission, failure, or refusal continues after the firefighter employer has been given written notice of such violation, omission, failure, or refusal. The total penalty for each violation shall not exceed \$50,000. The division shall adopt rules requiring penalties commensurate with the frequency or severity of safety violations. A hearing shall be held in the county in which the violation, omission, failure, or refusal is alleged to have occurred, unless otherwise agreed to by the firefighter employer and authorized by the division. All penalties assessed and collected under this section shall be deposited in the Insurance Commissioner's Regulatory Trust Fund.*

633.812 *Division cooperation with Federal Government; exemption from requirements for private firefighter employers.—*

(1) *The division shall cooperate with the Federal Government so that duplicate inspections will be avoided while at the same time ensuring safe firefighter employee places of employment for the citizens of this state.*

(2) *Except as provided in this section, a private firefighter employer is not subject to the requirements of the division if:*

(a) *The private firefighter employer is subject to the federal regulations in 29 C.F.R. ss. 1910 and 1926.*

(b) *The private firefighter employer has adopted and implemented a written safety program that conforms to the requirements of 29 C.F.R. ss. 1910 and 1926.*

(c) *A private firefighter employer with 20 or more full-time firefighter employees shall include provisions for a safety committee in the safety program. The safety committee shall include firefighter employee representation and shall meet at least once each calendar quarter. The private firefighter employer shall make adequate records of each meeting and maintain the records subject to inspections under subsection (3). The safety committee shall, if appropriate, make recommendations regarding improvements to the safety program and corrections of hazards affecting workplace safety.*

(d) *The private firefighter employer provides the division with a written statement that certifies compliance with this subsection.*

(3) *The division may enter at any reasonable time any place of private firefighter employment for the purpose of verifying the accuracy of the written certification. If the division determines that the private firefighter employer has not complied with the requirements of subsection (2), the private firefighter employer shall be subject to the rules of the division until the private firefighter employer complies with subsection (2) and recertifies that fact to the division.*

(4) *This section shall not restrict the division's performance of any duties pursuant to a written contract between the division and the federal Occupational Safety and Health Administration.*

633.813 *Failure to implement a safety and health program; cancellations.—If a firefighter employer that is found by the division to have a high frequency or severity of work-related injuries fails to implement a safety and health program, the insurer or self-insurer's fund that is providing coverage for the firefighter employer may cancel the contract for insurance with the firefighter employer. In the alternative, the insurer or fund may terminate any discount or deviation granted to the firefighter employer for the remainder of the term of the policy. If the contract is canceled or the discount or deviation is terminated, the insurer shall make such reports as are required by law.*

633.814 *Expenses of administration.—The amounts that are needed to administer ss. 633.801-633.821 shall be disbursed from the Insurance Commissioner's Regulatory Trust Fund.*

633.815 *Refusal to admit; penalty.—The division and authorized representatives of the division may enter and inspect any firefighter place of employment at any reasonable time for the purpose of investigating compliance with ss. 633.801-633.821 and conducting inspections for the proper enforcement of ss. 633.801-633.821. A firefighter employer who refuses to admit any member of the division or authorized representative of the division to any place of employment or to allow investigation and inspection pursuant to this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.*

633.816 *Firefighter employee rights and responsibilities.—*

(1) *Each firefighter employee of a firefighter employer covered under ss. 633.801-633.821 shall comply with rules adopted by the division and with reasonable workplace safety and health standards, rules, policies, procedures, and work practices established by the firefighter employer and the workplace safety committee. A firefighter employee who knowingly fails to comply with this subsection may be disciplined or discharged by the firefighter employer.*

(2) *A firefighter employer may not discharge, threaten to discharge, cause to be discharged, intimidate, coerce, otherwise discipline, or in any manner discriminate against a firefighter employee for any of the following reasons:*

(a) *The firefighter employee has testified or is about to testify, on her or his own behalf or on behalf of others, in any proceeding instituted under ss. 633.801-633.821;*

(b) *The firefighter employee has exercised any other right afforded under ss. 633.801-633.821; or*

(c) *The firefighter employee is engaged in activities relating to the workplace safety committee.*

(3) *No pay, position, seniority, or other benefit may be lost for exercising any right under, or for seeking compliance with any requirement of, ss. 633.801-633.821.*

633.817 *Compliance.*—Failure of a firefighter employer or an insurer to comply with ss. 633.801-633.821, or with any rules adopted under ss. 633.801-633.821, constitutes grounds for the division to seek remedies, including injunctive relief, by making appropriate filings with the circuit court.

633.818 *False statements to insurers.*—A firefighter employer who knowingly and willfully falsifies or conceals a material fact, who makes a false, fictitious, or fraudulent statement or representation, or who makes or uses any false document knowing the document to contain any false, fictitious, or fraudulent entry or statement to an insurer of workers' compensation insurance under ss. 633.801-633.821 commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

633.819 *Matters within jurisdiction of the division; false, fictitious, or fraudulent acts, statements, and representations prohibited; penalty; statute of limitations.*—A person may not, in any matter within the jurisdiction of the division, knowingly and willfully falsify or conceal a material fact; make any false, fictitious, or fraudulent statement or representation; or make or use any false document, knowing the same to contain any false, fictitious, or fraudulent statement or entry. A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The statute of limitations for prosecution of an act committed in violation of this section is 5 years after the date the act was committed or, if not discovered within 30 days after the act was committed, 5 years after the date the act was discovered.

633.820 *Volunteer firefighters.*—Sections 633.803-633.821 apply to volunteer firefighters and volunteer fire departments.

633.821 *Workplace safety.*—

(1) The division shall assist in making the firefighter employee place of employment a safer place to work and decreasing the frequency and severity of on-the-job injuries in such workplace.

(2) The division shall have the authority to adopt rules for the purpose of ensuring safe working conditions for all firefighter employees by authorizing the enforcement of effective standards, by assisting and encouraging firefighter employers to maintain safe working conditions, and by providing for education and training in the field of safety. Specifically, the division may by rule adopt all or any part of subparts C through T and subpart Z of 29 C.F.R. s. 1910, as revised April 8, 1998; the National Fire Protection Association, Inc., Standard 1500, paragraph 5-7 (Personal Alert Safety System) (1992 edition); and ANSI A 10.4-1990.

(3) With respect to 29 C.F.R. s. 1910.134(g)(4), the two individuals located outside the immediately dangerous to life and health atmosphere may be assigned to an additional role, such as incident commander, pumper operator, engineer, or driver, so long as such individual is able to immediately perform assistance or rescue activities without jeopardizing the safety or health of any firefighter working at an incident. Also with respect to 29 C.F.R. s. 1910.134(g)(4):

(a) Each county, municipality, and special district shall implement such provision by April 1, 2002, except as provided in paragraphs (b) and (c).

(b) If any county, municipality, or special district is unable to implement such provision by April 1, 2002, without adding additional personnel to its firefighting staff or expending significant additional funds, such county, municipality, or special district shall have an additional 6 months within which to implement such provision. Such county, municipality, or special district shall notify the division that the 6-month extension to implement such provision is in effect in such county, municipality, or special district within 30 days after its decision to extend the time for the additional 6 months. The decision to extend the time for implementation shall be made prior to April 1, 2002.

(c) If, after the extension granted in paragraph (b), the county, municipality, or special district, after having worked with and cooperated fully with the division and the Firefighters Employment, Standards, and Training Council, is still unable to implement such provisions without adding additional personnel to its firefighting staff or expending significant additional funds, such municipality, county, or special district shall be exempt from the requirements of 29 C.F.R. s. 1910.134(g)(4). However, each year thereafter the division shall review each such county, municipality, or special district to determine if such county, municipality, or

special district has the ability to implement such provision without adding additional personnel to its firefighting staff or expending significant additional funds. If the division determines that any county, municipality, or special district has the ability to implement such provision without adding additional personnel to its firefighting staff or expending significant additional funds, the division shall require such county, municipality, or special district to implement such provision. Such requirement by the division under this paragraph constitutes final agency action subject to chapter 120.

(4) The provisions of chapter 440 that pertain to workplace safety apply to the division.

(5) The division may adopt any rule necessary to implement, interpret, and make specific the provisions of this section, provided the division may not adopt by rule any other standard or standards of the Occupational Safety and Health Administration or the National Fire Protection Association relating solely to ss. 633.801-633.821 and firefighter employment safety without specific legislative authority.

Section 16. Section 633.31, Florida Statutes, is amended to read:

633.31 *Firefighters Employment, Standards, and Training Council.*—

(1) There is created within the Department of Insurance a Firefighters Employment, Standards, and Training Council of 13 ~~nine~~ members appointed by the State Fire Marshal. Two members shall be fire chiefs appointed by the Florida Fire Chiefs Association, two members shall be firefighters who are not officers, appointed by the Florida Professional Firefighters Association, two members shall be firefighter officers who are not fire chiefs, appointed by the State Fire Marshal, one member appointed by the Florida League of Cities, one member appointed by the Florida Association of Counties, one member appointed by the Florida Association of Special Districts, one member appointed by the Florida Fire Marshal's Association, and one member appointed by the State Fire Marshal, and one member shall be a director or instructor of a state-certified firefighting training facility appointed by the State Fire Marshal. To be eligible for appointment as a fire chief member, firefighter officer member, firefighter member, or a director or instructor of a state-certified firefighting facility, a person shall have had at least 4 years' experience in the firefighting profession. The remaining member, who shall be appointed by the State Fire Marshal, ~~two members~~ shall not be a member or representative members of the firefighting profession or of any local government. Members shall serve only as long as they continue to meet the criteria under which they were appointed, or unless a member has failed to appear at three consecutive and properly noticed meetings unless excused by the chair.

(2) ~~Initially, the State Fire Marshal shall appoint three members for terms of 4 years, two members for terms of 3 years, two members for terms of 2 years, and two members for terms of 1 year. Thereafter,~~ Members shall be appointed for 4-year terms and in no event shall a member serve more than two consecutive terms. Any vacancy shall be filled in the manner of the original appointment for the remaining time of the term.

(3) The State Fire Marshal, in making her or his appointments, shall take into consideration representation by geography, population, and other relevant factors, in order that the membership on the council will be apportioned to give representation to the state at large rather than to a particular area.

(4) Membership on the council shall not disqualify a member from holding any other public office or being employed by a public entity, except that no member of the Legislature shall serve on the council.

Section 17. Subsections (4) and (5) of section 633.33, Florida Statutes, are amended to read:

633.33 *Special powers; firefighter training.*—The council shall have special powers in connection with the employment and training of firefighters to:

(4) Consult and cooperate with any employing agency, university, college, community college, the Florida State Fire College, or other educational institution concerning the employment and safety of firefighters, including, but not limited to, the safety of firefighters while at the scene of a fire or the scene of an incident related to the provision of emergency

services to which a firefighter responds, and the development of firefighter training schools and programs of courses of instruction, including, but not limited to, education and training in the areas of *firefighter employment*, fire science, fire technology, fire administration, and all allied and supporting fields.

(5) Make or support studies on any aspect of firefighting *employment*, education, and training or recruitment.

Section 18. Paragraph (c) of subsection (3) of section 383.3362, Florida Statutes, is amended to read:

383.3362 Sudden Infant Death Syndrome.—

(3) TRAINING.—

(c) The Department of Health, in consultation with the Emergency Medical Services Advisory Council, the Firefighters *Employment*, Standards, and Training Council, and the Criminal Justice Standards and Training Commission, shall develop and adopt, by rule, curriculum that, at a minimum, includes training in the nature of SIDS, standard procedures to be followed by law enforcement agencies in investigating cases involving sudden deaths of infants, and training in responding appropriately to the parents or caretakers who have requested assistance.

Section 19. Subsection (4) of section 633.30, Florida Statutes, is amended to read:

633.30 Standards for firefighting; definitions.—As used in this chapter:

(4) “Council” means the Firefighters *Employment*, Standards, and Training Council.

Section 20. Subsection (4) of section 633.32, Florida Statutes, is amended to read:

633.32 Organization; meetings; quorum; compensation; seal.—

(4) The council may adopt a seal for its use containing the words “Firefighters *Employment*, Standards, and Training Council.”

Section 21. *The Legislature determines and declares that this act fulfills an important state interest.*

Section 22. Effective June 30, 2002, paragraphs (a) and (c) of subsection (1) and subsections (4), (5), (6), (7), (8), and (9) of section 163.05, Florida Statutes, are amended to read:

163.05 Small County Technical Assistance Program.—

(1) Among small counties, the Legislature finds that:

(a) The percentage of the population of small counties residing in the unincorporated areas is relatively high *based on the United States Decennial Census of 2000 and increased substantially between 1980 and 1990.*

(c) Fiscal shortfalls persist even though *12 13* of the small counties levied the maximum ad valorem millage authorized in their jurisdictions in *2001 1990* and an additional *15 13* small counties levied between 8 and 10 mills.

(4) The *Commissioner of Agriculture Comptroller* shall enter into contracts with program providers who shall:

(a) Be a *foundation that meets the requirements for nonprofit status under s. 501(c)(3) of the Internal Revenue Code with a governing board which includes in its membership county commissioners and professional staff of the county public agency or private, nonprofit corporation, association, or entity.*

(b) *Have substantial and documented experience working closely with county governments in providing both educational and technical assistance.*

(c)(b) Use existing resources, services, and information that are available from state or local agencies, universities, or the private sector.

(d)(e) Seek and accept funding from any public or private source.

~~(d) Annually submit information to assist the Legislative Committee on Intergovernmental Relations in preparing a performance review that will include an analysis of the effectiveness of the program.~~

(e) Assist small counties in developing alternative revenue sources.

(f) Provide assistance to small counties in the areas *such as* of financial management, accounting, investing, purchasing, planning and budgeting, debt issuance, public management, management systems, computers and information technology, *economic and community development*, and public safety management.

(g) Provide for an annual independent financial audit of the program.

(h) In each county served, conduct a needs assessment upon which the assistance provided for that county will be designed.

~~(5)(a) The Commissioner of Agriculture Comptroller shall issue a request for proposals to provide assistance to small counties. The request for proposals shall be required no more frequently than every third year beginning with fiscal year 2004-2005. All contracts in existence on the effective date of this act between the Comptroller and any other party with respect to the Small County Technical Assistance Program may be accepted by the Commissioner of Agriculture as the party in interest and said contracts shall remain in full force and effect according to their terms. At the request of the Comptroller, the Legislative Committee on Intergovernmental Relations shall assist in the preparation of the request for proposals.~~

(b) The *Commissioner of Agriculture Comptroller* shall review each contract proposal submitted.

~~(c) The Legislative Committee on Intergovernmental Relations shall review each contract proposal and submit to the Comptroller, in writing, advisory comments and recommendations, citing with specificity the reasons for its recommendations.~~

~~(c)(d) The Commissioner of Agriculture Comptroller and the council shall consider the following factors in reviewing contract proposals:~~

1. The demonstrated capacity of the provider to conduct needs assessments and implement the program as proposed.

2. The number of small counties to be served under the proposal.

3. The cost of the program as specified in a proposed budget.

4. The short-term and long-term benefits of the assistance to small counties.

5. The form and extent to which existing resources, services, and information that are available from state and local agencies, universities, and the private sector will be used by the provider under the contract.

(6) A decision of the *Commissioner of Agriculture Comptroller* to award a contract under this section is final and shall be in writing ~~with a copy provided to the Legislative Committee on Intergovernmental Relations.~~

~~(7) The Comptroller may enter into contracts and agreements with other state and local agencies and with any person, association, corporation, or entity other than the program providers, for the purpose of administering this section.~~

~~(7)(8) The Commissioner of Agriculture Comptroller shall provide fiscal oversight to ensure that funds expended for the program are used in accordance with the contracts entered into pursuant to subsection (4) and shall conduct a performance review of the program as may be necessary to ensure that the goals and objectives of the program are being met.~~

~~(9) The Legislative Committee on Intergovernmental Relations shall annually conduct a performance review of the program. The findings of the review shall be presented in a report submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Comptroller by January 15 of each year.~~

Section 23. *Effective June 30, 2002, Specific Appropriation 2252 in the 2002-2003 General Appropriations Act is hereby repealed and an*

identical amount is hereby appropriated to the Department of Agriculture and Consumer Services from the General Revenue Fund for the purposes of this act.

Section 24. Except as otherwise provided herein, 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 governmental reorganization; amending s. 20.04, F.S.; providing an exception to departmental structure requirements; deleting reference to the Department of Banking and Finance and substituting the Department of Financial Services; creating s. 20.121, F.S.; creating the Department of Financial Services; specifying the Chief Financial Officer as the head of the department; providing for departmental structure; creating the Financial Services Commission; providing commission composition, structure, and powers; establishing the Office of Insurance Regulation and the Office of Financial Institutions and Securities Regulation within the commission; providing powers, duties, and responsibilities of such offices; requiring the commission to establish certain additional organizational structure of such offices; providing for appointment and specifying qualifications of directors of such offices; providing for administrative support for such offices; transferring certain programs, including employees and equipment, from the Department of Banking and Finance and the Department of Insurance to the Department of Financial Services, the Office of Insurance Regulation, and the Office of Financial Institutions and Securities Regulation; transferring certain trust funds from the Department of Banking and Finance and the Department of Insurance to the Department of Financial Services, the Office of Insurance Regulation, and the Office of Financial Institutions and Securities Regulation; specifying that certain statutory appointment responsibilities vested by law in certain officers are the responsibility of the Chief Financial Officer; specifying that rules of the Department of Banking and Finance and the Department of Insurance become rules of the Department of Financial Services or the Financial Services Commission; providing for preservation of validity of judicial or administrative actions involving such departments; providing for substitution of certain parties in interest in such actions; creating the Committee of Transition Management; providing for independent function; providing for treatment for administrative purposes as an office of the Executive Office of the Governor; providing for appointment of committee members; specifying powers and duties of the committee; requiring certain reports, proposed organizational plans, and written recommendations to the Financial Services Commission and the Legislature; providing additional legislative intent relating to statutory responsibility for certain appointments becoming the responsibility of the Chief Financial Officer or the Financial Services Commission; providing for conforming legislation; providing for assistance of certain legislative substantive committees by the Division of Statutory Revision for certain purposes; amending s. 1, ch. 2002-194, Laws of Florida; providing an exception to a transfer provided for in said act; amending s. 288.99, F.S.; redefining the terms "early stage technology business" and "qualified distribution"; defining the terms "Program One" and "Program Two"; revising procedures and dates for certification and decertification under Program One and Program Two; revising the process for earning premium tax credits; providing a limitation on tax credits under Program Two; providing for distributions under both programs; requiring the Department of Revenue to adopt certain rules; providing for additional premium; providing for additional allocations of certain insurance premium tax credits under certain circumstances; authorizing the Department of Revenue to adopt rules; amending s. 517.12, Florida Statutes; exempting general lines insurance agents and life insurance agents from registration requirements relating to sales of certain securities in certain circumstances; amending s. 570.07, F.S.; specifying emergency powers of the Commissioner of Agriculture; amending s. 624.91, F.S.; revising provisions of the Florida Healthy Kids Corporation Act, to conform; creating ss. 633.801, 633.802, 633.803, 633.804, 633.805, 633.806, 633.807, 633.808, 633.809, 633.810, 633.811, 633.812, 633.813, 633.814, 633.815, 633.816, 633.817, 633.818, 633.819, 633.820, and 633.821, F.S.; providing a short title; providing definitions; providing legislative intent; authorizing the Division of State Fire Marshal of the Department of Insurance to adopt rules related to firefighter safety inspections; requiring the division to conduct a study of firefighter occupational diseases; authorizing representatives of the division to enter and inspect any place of firefighter employment; requiring firefighter employers to provide safe employment conditions; authorizing the division to adopt rules that prescribe means for preventing accidents in places of firefighter employment and establish standards for construction, repair,

and maintenance; requiring the division to inspect places of firefighter employment and to develop safety and health programs for those firefighter employers whose employees have a high frequency or severity of work-related injuries; requiring certain firefighter employers to establish workplace safety committees and to maintain certain records; providing penalties for firefighter employers who violate provisions of the act; providing exemptions; providing a penalty for the failure to implement a safety and health program and cancellations; providing for expenses of administration; providing penalties for refusal to admit division; specifying firefighter employee rights and responsibilities; providing division remedies for failure to comply; providing penalties for firefighter employers who make false statements to the division or to an insurer; providing criminal penalties for false, malicious, or fraudulent statements and representatives; specifying applicability to volunteer firefighters and fire departments; providing for workplace safety and to authorize the division to adopt rules including federal standards for assuring safe working conditions for all firefighter employees; amending s. 633.31, F.S.; changing the name of and expanding and diversifying the Firefighters Standards and Training Council; amending s. 633.33, F.S.; providing additional duties of the council; amending ss. 383.3362, 633.330, and 633.32, F.S.; conforming language; providing a declaration of important state interest; amending s. 163.05, F.S.; revising legislative findings; providing criteria for contracts between the Commissioner of Agriculture and program providers; deleting responsibilities of the Comptroller and the Legislative Committee on Intergovernmental Relations; authorizing the Commissioner of Agriculture to award contracts to provide assistance to small counties; requiring the Commissioner of Agriculture to provide fiscal oversight and performance reviews; providing an appropriation; providing effective dates.

SENATOR CARLTON PRESIDING

THE PRESIDENT PRESIDING

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

Amendment 1A (090300)(with title amendment)—On page 40, line 31 through page 41, line 8, delete those lines and insert:

(20) *The registration requirements of this section do not apply to individuals licensed under s. 626.041 or its successor statute, or s. 626.051 or its successor statute, for the sale of a security as defined in s. 517.021(19)(g), if the individual is directly authorized by the issuer to offer or sell the security on behalf of the issuer and the issuer is a federally chartered savings bank subject to regulation by the Federal Deposit Insurance Corporation. Actions under this subsection shall constitute activity under the insurance agent's license for purposes of ss. 626.611 and 626.621.*

And the title is amended as follows:

On page 70, line 24, after the semicolon (;) insert: providing for the applicability of specified sections of the Insurance Code;

Amendment 1 as amended was adopted.

Pending further consideration of **CS for SB's 42-E and 26-E** as amended, on motion by Senator Latvala, by two-thirds vote **HB 3-E** was withdrawn from the Committee on Banking and Insurance.

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

HB 3-E—A bill to be entitled An act relating to governmental reorganization; amending s. 20.04, F.S.; providing an exception to departmental structure requirements; deleting reference to the Department of Banking and Finance and substituting the Department of Financial Services; creating s. 20.121, F.S.; creating the Department of Financial Services; specifying the Chief Financial Officer as the head of the department; providing for departmental structure; creating the Financial Services Commission; providing commission composition, structure, and powers; establishing the Office of Insurance Regulation and the Office of Financial Institutions and Securities Regulation within the commission; providing powers, duties, and responsibilities of such offices; requiring the commission to establish certain additional organizational structure of such offices; providing for appointment and specifying qualifications of directors of such offices; providing for administrative support for such offices; transferring certain programs, including employees and equipment, from the Department of Banking and Finance and the Department of Insurance to the Department of Financial Services, the

Office of Insurance Regulation, and the Office of Financial Institutions and Securities Regulation; transferring certain trust funds from the Department of Banking and Finance and the Department of Insurance to the Department of Financial Services, the Office of Insurance Regulation, and the Office of Financial Institutions and Securities Regulation; specifying that certain statutory appointment responsibilities vested by law in certain officers are the responsibility of the Chief Financial Officer; specifying that rules of the Department of Banking and Finance and the Department of Insurance become rules of the Department of Financial Services or the Financial Services Commission; providing for preservation of validity of judicial or administrative actions involving such departments; providing for substitution of certain parties in interest in such actions; creating the Committee of Transition Management; providing for independent function; providing for treatment for administrative purposes as an office of the Executive Office of the Governor; providing for appointment of committee members; specifying powers and duties of the committee; requiring certain reports, proposed organizational plans, and written recommendations to the Financial Services Commission and the Legislature; providing additional legislative intent relating to statutory responsibility for certain appointments becoming the responsibility of the Chief Financial Officer or the Financial Services Commission; providing for conforming legislation; providing for assistance of certain legislative substantive committees by the Division of Statutory Revision for certain purposes; amending s. 1, ch. 2002-194, Laws of Florida; providing an exception to a transfer provided for in said act; amending s. 288.99, F.S.; redefining the terms "early stage technology business" and "qualified distribution"; defining the terms "Program One" and "Program Two"; revising procedures and dates for certification and decertification under Program One and Program Two; revising the process for earning premium tax credits; providing a limitation on tax credits under Program Two; providing for distributions under both programs; requiring the Department of Revenue to adopt certain rules; providing for additional premium; providing for additional allocations of certain insurance premium tax credits under certain circumstances; authorizing the Department of Revenue to adopt rules; amending s. 517.12, Florida Statutes; exempting general lines insurance agents and life insurance agents from registration requirements relating to sales of certain securities in certain circumstances; amending s. 570.07, F.S.; specifying emergency powers of the Commissioner of Agriculture; amending s. 624.91, F.S.; revising provisions of the Florida Healthy Kids Corporation Act, to conform; creating ss. 633.801, 633.802, 633.803, 633.804, 633.805, 633.806, 633.807, 633.808, 633.809, 633.810, 633.811, 633.812, 633.813, 633.814, 633.815, 633.816, 633.817, 633.818, 633.819, 633.820, and 633.821, F.S.; providing a short title; providing definitions; providing legislative intent; authorizing the Division of State Fire Marshal of the Department of Insurance to adopt rules related to firefighter safety inspections; requiring the division to conduct a study of firefighter occupational diseases; authorizing representatives of the division to enter and inspect any place of firefighter employment; requiring firefighter employers to provide safe employment conditions; authorizing the division to adopt rules that prescribe means for preventing accidents in places of firefighter employment and establish standards for construction, repair, and maintenance; requiring the division to inspect places of firefighter employment and to develop safety and health programs for those firefighter employers whose employees have a high frequency or severity of work-related injuries; requiring certain firefighter employers to establish workplace safety committees and to maintain certain records; providing penalties for firefighter employers who violate provisions of the act; providing exemptions; providing a penalty for the failure to implement a safety and health program and cancellations; providing for expenses of administration; providing penalties for refusal to admit division; specifying firefighter employee rights and responsibilities; providing division remedies for failure to comply; providing penalties for firefighter employers who make false statements to the division or to an insurer; providing criminal penalties for false, malicious, or fraudulent statements and representatives; specifying applicability to volunteer firefighters and fire departments; providing for workplace safety and to authorize the division to adopt rules including federal standards for assuring safe working conditions for all firefighter employees; amending s. 633.31, F.S.; changing the name of and expanding and diversifying the Firefighters Standards and Training Council; amending s. 633.33, F.S.; providing additional duties of the council; amending ss. 383.3362, 633.330, and 633.32, F.S.; conforming language; providing a declaration of important state interest; amending s. 163.05, F.S.; revising legislative findings; providing criteria for contracts between the Commissioner of Agriculture and program providers; deleting responsibilities of the Comptroller and the Legislative Committee on Intergovernmental Relations; authorizing the Commissioner of Agriculture to award contracts

to provide assistance to small counties; requiring the Commissioner of Agriculture to provide fiscal oversight and performance reviews; providing an appropriation; providing effective dates.

—a companion measure, was substituted for **CS for SB's 42-E and 26-E** as amended and by two-thirds vote read the second time by title. On motion by Senator Latvala, by two-thirds vote **HB 3-E** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Geller	Posey
Brown-Waite	Holzendorf	Pruitt
Burt	Jones	Rossin
Campbell	King	Sanderson
Carlton	Klein	Saunders
Clary	Latvala	Sebesta
Constantine	Laurent	Silver
Cowin	Lawson	Smith
Crist	Lee	Sullivan
Diaz de la Portilla	Meek	Villalobos
Dyer	Miller	Wasserman Schultz
Futch	Mitchell	Webster
Garcia	Peaden	Wise

Nays—None

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

Motion

On motion by Senator Lee, by the required constitutional two-thirds vote of the membership the following bill was admitted for introduction outside the purview of the Governor's call:

By Senator Lee—

SB 78-E—A bill to be entitled An act relating to public records; providing for the confidentiality of certain information held by the Florida Alzheimer's Center and Research Institute and others; creating an exemption from the public-records provisions of the State Constitution and Florida law for certain information relating to clients, patients, and donors, as well as medical and health records and certain proprietary and trade-secret information; providing a statement of public necessity for such exemptions; providing for future repeal; providing a contingent effective date.

—was referred to the Committee on Governmental Oversight and Productivity.

ANNOUNCEMENTS

Senator Lee announced that the following meetings were scheduled for Tuesday, May 7: from 10:45 a.m. to 11:45 a.m., the Committee on Judiciary; from 12:00 noon to 1:00 p.m., the Committees on Appropriations Subcommittee on Health and Human Services; and Finance and Taxation; from 1:15 p.m. to 4:00 p.m., the Committee on Ethics and Elections; from 4:15 p.m. to 5:30 p.m., the Committee on Criminal Justice; and from 5:45 p.m. to 6:15 p.m., the Committee on Governmental Oversight and Productivity.

Senator Lee announced that the Joint Legislative Committee on Article V was scheduled to meet 15 minutes after recess of session for two hours on Wednesday, May 8.

MOTIONS

On motion by Senator Lee, the rules were waived and by two-thirds vote **SB 66-E, SB 68-E, SB 70-E, SB 72-E, SB 76-E** and **SB 78-E** were established as the Special Order Calendar for Wednesday, May 8.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Friday, May 3, 2002: SB 2-E, SB 4-E, SB 8-E, SB 10-E, SB 32-E, SB 36-E, SB 38-E, SB 34-E, SB 54-E

Respectfully submitted,
Tom Lee, Chairman

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

EXECUTIVE SUSPENSIONS

The following Executive Orders were filed with the Secretary:

EXECUTIVE ORDER NUMBER 02-126

(Executive Order of Suspension)

WHEREAS, Miriam Alonso is presently serving as a County Commissioner for Miami-Dade County, Florida, and

WHEREAS, Miriam Alonso has been arrested for two counts of grand theft, in violation of section 812.014, Florida Statutes, one count of unlawful compensation, in violation of section 838.016, Florida Statutes, and one count of exploitation of official position, in violation of Miami-Dade County Ordinance Section 2-11.1(g), and

WHEREAS, it is in the best interest of the residents of Miami-Dade County, and the citizens of the State of Florida that Miriam Alonso be immediately suspended from the public office which she now holds, upon the grounds hereinafter set forth,

NOW, THEREFORE, I, JEB BUSH, Governor of Florida, pursuant to the Constitution and the laws of the State of Florida, do hereby find, determine and, for the purposes of Article IV, section 7, Florida Constitution, allege as follows:

A. Miriam Alonso is, and at all times material hereto was, a member of the County Commission for Miami-Dade County, Florida.

B. The office of County Commissioner is within the purview of the suspension powers of the Governor, pursuant to Article IV, section 7, Florida Constitution.

C. The attached warrants and affidavits state that Miriam Alonso was arrested for committing acts in violation of sections 812.014 and 838.016, Florida Statutes, and Miami-Dade County Ordinance Section 2-11.1(g), and a copy of these warrants and affidavits are hereby incorporated by reference as if fully set forth in this executive order.

D. This suspension is predicated upon the attached arrest warrants and affidavits, which set forth facts showing Miriam Alonso committed felony offenses and malfeasance.

BEING FULLY ADVISED in the premises, and in accordance with the Constitution and the laws of the State of Florida, this Executive Order is hereby promulgated, effective immediately:

Section 1. Miriam Alonso is hereby suspended from the public office which she now holds, to wit: County Commissioner for Miami-Dade County, Florida.

Section 2. Miriam Alonso is hereby prohibited from performing any official act, duty, or function of public office; from receiving any pay or allowance; and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, which period shall be from the effective date hereof, until a further executive order is issued, or as otherwise provided by law.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, the Capitol, this 23rd day of April, 2002.

Jeb Bush
GOVERNOR



ATTEST:
Katherine Harris
SECRETARY OF STATE

[Referred to the Committee on Ethics and Elections.]

EXECUTIVE ORDER NO. 02-134

WHEREAS, Wyon D. Childers is presently serving as County Commissioner for Escambia County, Florida, and

WHEREAS, the Special Grand Jury, Circuit Court of the First Judicial Circuit, has returned indictments charging Wyon D. Childers with five counts of violating the Florida Sunshine law, in violation of section 286.011, Florida Statutes, and

WHEREAS, it is in the best interest of the residents of Escambia County, and the citizens of the State of Florida that Wyon D. Childers be immediately suspended from the public office which he now holds, upon the grounds hereinafter set forth;

NOW, THEREFORE, I, JEB BUSH, Governor of Florida, pursuant to the Constitution and the laws of the State of Florida, do hereby find, determine, and for the purposes of Article IV, Section 7, of the Florida Constitution, allege as follows:

A. Wyon D. Childers is, and at all times material hereto was, a County Commissioner for Escambia County, Florida.

B. The office of County Commissioner for Escambia County, Florida, is within the purview of the suspension powers of the Governor, pursuant to Article IV, Section 7, of the Florida Constitution.

C. This suspension is predicated upon the attached Indictments and these Indictments are hereby incorporated as if fully set forth in this Executive Order.

D. The attached Indictments allege that Wyon D. Childers committed acts in violation of the laws of Florida that constitute malfeasance and/or misfeasance.

BEING FULLY ADVISED in the premises, and in accordance with the Constitution and the laws of the State of Florida, this Executive Order is hereby promulgated, effective immediately:

Section 1. Wyon D. Childers is hereby suspended from the public office which he now holds, to wit: County Commissioner for Escambia County, Florida.

Section 2. Wyon D. Childers is hereby prohibited from performing any official act, duty, or function of public office; from receiving any pay or allowance; and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, which period shall be from the effective date hereof, until a further Executive Order is issued, or as otherwise provided by law.

IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 1st day of May, 2002.

Jeb Bush
GOVERNOR



ATTEST:
Katherine Harris
SECRETARY OF STATE

[Referred to the Committee on Ethics and Elections.]

EXECUTIVE ORDER NO. 02-135

WHEREAS, Willie J. Junior is presently serving as a County Commissioner for Escambia County, Florida, and

WHEREAS, the Special Grand Jury, Circuit Court of the First Judicial Circuit, has returned indictments charging Willie J. Junior with one

count of grand theft, in violation of section 812.014, Florida Statutes, four counts of extortion, in violation of section 836.05, Florida Statutes, four counts of bribery, in violation of section 838.015, Florida Statutes, one count of racketeering, in violation of section 895.03, Florida Statutes, and two counts of violating the Florida Sunshine law, in violation of section 286.011, Florida Statutes, and

WHEREAS, it is in the best interest of the residents of Escambia County, and the citizens of the State of Florida that Willie J. Junior be immediately suspended from the public office which he now holds, upon the grounds hereinafter set forth;

NOW, THEREFORE, I, JEB BUSH, Governor of Florida, pursuant to the Constitution and the laws of the State of Florida, do hereby find, determine, and for the purposes of Article IV, Section 7, of the Florida Constitution, allege as follows:

A. Willie J. Junior is, and at all times material hereto was, a County Commissioner for Escambia County, Florida.

B. The office of County Commissioner for Escambia County, Florida, is within the purview of the suspension powers of the Governor, pursuant to Article IV, Section 7, of the Florida Constitution.

C. This suspension is predicated upon the attached Indictments and these Indictments are hereby incorporated as if fully set forth in this Executive Order.

D. The attached Indictments allege that Willie J. Junior committed acts in violation of the laws of Florida that constitute commission of felony crimes, malfeasance and/or misfeasance.

BEING FULLY ADVISED in the premises, and in accordance with the Constitution and the laws of the State of Florida, this Executive Order is hereby promulgated, effective immediately:

Section 1. Willie J. Junior is hereby suspended from the public office which he now holds, to wit: County Commissioner for Escambia County, Florida.

Section 2. Willie J. Junior is hereby prohibited from performing any official act, duty, or function of public office; from receiving any pay or allowance; and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, which period shall be from the effective date hereof, until a further Executive Order is issued, or as otherwise provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed, at Tallahassee, the Capitol, this 1st day of May, 2002.

Jeb Bush
GOVERNOR

ATTEST:
Katherine Harris
SECRETARY OF STATE

[Referred to the Committee on Ethics and Elections.]

EXECUTIVE ORDER NO. 02-136

WHEREAS, Terry Smith is presently serving as a County Commissioner for Escambia County, Florida, and

WHEREAS, the Special Grand Jury, Circuit Court of the First Judicial Circuit, has returned indictments charging Terry Smith with three counts of violating the Florida Sunshine law, in violation of section 286.011, Florida Statutes, and

WHEREAS, it is in the best interest of the residents of Escambia County, and the citizens of the State of Florida that Terry Smith be immediately suspended from the public office which he now holds, upon the grounds hereinafter set forth;

NOW, THEREFORE, I, JEB BUSH, Governor of Florida, pursuant to the Constitution and the laws of the State of Florida, do hereby find,

determine and, for the purposes of Article IV, Section 7, of the Florida Constitution, allege as follows:

A. Terry Smith is, and at all times material hereto was, a County Commissioner for Escambia County, Florida.

B. The office of County Commissioner for Escambia County, Florida, is within the purview of the suspension powers of the Governor, pursuant to Article IV, Section 7, of the Florida Constitution.

C. This suspension is predicated upon the attached Indictments and these Indictments are hereby incorporated as if fully set forth in this Executive Order.

D. The attached Indictments allege that Terry Smith committed acts in violation of the laws of Florida that constitute malfeasance and/or misfeasance.

BEING FULLY ADVISED in the premises, and in accordance with the Constitution and the laws of the State of Florida, this Executive Order is hereby promulgated, effective immediately:

Section 1. Terry Smith is hereby suspended from the public office which he now holds, to wit: County Commissioner for Escambia County, Florida.

Section 2. Terry Smith is hereby prohibited from performing any official act, duty, or function of public office; from receiving any pay or allowance; and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, which period shall be from the effective date hereof, until a further Executive Order is issued, or as otherwise provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed, at Tallahassee, the Capitol, this 1st day of May, 2002.

Jeb Bush
GOVERNOR

ATTEST:
Katherine Harris
SECRETARY OF STATE

[Referred to the Committee on Ethics and Elections.]

EXECUTIVE ORDER NO. 02-133

WHEREAS, Michael T. Bass is presently serving as a County Commissioner for Escambia County, Florida, and

WHEREAS, the Special Grand Jury, Circuit Court of the First Judicial Circuit, has returned indictments charging Michael T. Bass with two counts of bribery, in violation of section 838.015, Florida Statutes, one count of principal to money laundering, in violation of sections 777.011 and 896.101, Florida Statutes, one count of racketeering, in violation of section 895.03, Florida Statutes, and three counts of violating the Florida Sunshine law, in violation of section 286.011, Florida Statutes, and

WHEREAS, it is in the best interest of the residents of Escambia County, and the citizens of the State of Florida, that Michael T. Bass be immediately suspended from the public office which he now holds, upon the grounds hereinafter set forth;

NOW, THEREFORE, I, JEB BUSH, Governor of Florida, pursuant to the Constitution and the laws of the State of Florida, do hereby find, determine, and for the purposes of Article IV, Section 7, of the Florida Constitution, allege as follows:

A. Michael T. Bass is, and at all times material hereto was, a County Commissioner for Escambia County, Florida.

B. The office of County Commissioner for Escambia County, Florida, is within the purview of the suspension powers of the Governor, pursuant to Article IV, Section 7, Florida Constitution.

C. This suspension is predicated upon the attached Indictments and these Indictments are hereby incorporated as if fully set forth in this Executive Order.

D. The attached Indictments allege that Michael T. Bass committed acts in violation of the laws of Florida that constitute commission of felony crimes, malfeasance, and/or misfeasance.

BEING FULLY ADVISED in the premises, and in accordance with the Constitution and the laws of the State of Florida, this Executive Order is hereby promulgated, effective immediately:

Section 1. Michael T. Bass is hereby suspended from the public office which he now holds, to wit: County Commissioner for Escambia County, Florida.

Section 2. Michael T. Bass is hereby prohibited from performing any official act, duty, or function of public office; from receiving any pay or allowance; and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, which period shall be from the effective date hereof, until a further Executive Order is issued, or as otherwise provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 1st day of May, 2002.

Jeb Bush
GOVERNOR

ATTEST:
Katherine Harris
SECRETARY OF STATE

[Referred to the Committee on Ethics and Elections.]

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has passed HB 5-E, HB 65-E; and has passed by the required Constitutional three-fifths vote of the membership HB 55-E, HB 57-E and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Lacasa—

HB 5-E—A bill to be entitled An act relating to the Miami-Dade County Home Rule Charter; amending the Miami-Dade County Home Rule Charter; providing additional powers of the Board of County Commissioners; specifying thirteen County Commission districts; requiring the Board to adopt certain reapportionment plan development procedures; providing for salaries of County Commissioners; providing for an acting County Mayor under certain circumstances; providing requirements; specifying powers and duties of the County Commission; creating the office of County Mayor; providing for election of the County Mayor; specifying powers and responsibilities of the County Mayor; limiting eligibility of the County Mayor under certain circumstances; providing for Deputy County Mayors; requiring the County Commission to annually appropriate funds to the Executive Office of the County Mayor for certain purposes; revising provisions for election and terms of County Commissioners; providing for nonpartisan election of a County Supervisor of Elections; providing for powers and duties of the County Supervisor of Elections; providing for disqualification of certain persons to vote or hold office; specifying term limits for County Mayor and County Commissioners; providing for a County Comptroller; providing for functions, qualifications, powers, and duties of the County Comptroller; specifying a term of office of the County Comptroller; specifying restrictions relating to the Office of the County Comptroller; providing for removal of the County Comptroller; revising the administrative organization and procedures of the county; specifying service offices associated with Deputy

County Mayors; specifying departments within such service offices; providing for financial planning by the Executive Office of the County Mayor; providing requirements; providing for county civil service; providing for the Office of County Attorney; providing for demographic, policy, and planning functions; abolishing the office of County Manager and transferring to the County Mayor the powers, duties, functions, and responsibilities of the County Manager; revising certain other provisions to conform; providing severability for charter provisions; providing severability; providing for a referendum to be called by the Board of County Commissioners of Miami-Dade County; specifying the form of the ballot question on the referendum; providing for effect upon referendum approval; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Representative Goodlette and others—

HB 65-E—A bill to be entitled An act relating to constitutional amendments proposed by initiative; amending ss. 100.371 and 101.161, F.S.; requiring the Revenue Estimating Conference to provide an analysis of the estimated fiscal impact to state or local governments resulting from any constitutional amendment proposed by initiative; authorizing the Revenue Estimating Conference to solicit information regarding a proposed initiative amendment; providing for a decision in the event of a tie vote among members of the Revenue Estimating Conference; requiring that a summary analysis of the estimated fiscal impact be included on the ballot following the ballot title and substance of the initiative; providing for construction of the act in pari materia with laws enacted during the Regular Session of the Legislature; providing an effective date.

—was referred to the Committee on Ethics and Elections.

By the Fiscal Responsibility Council; and Representative Johnson—

HB 55-E—A bill to be entitled An act relating to trust funds; creating the Workers' Compensation Administration Trust Fund within the Department of Education; providing for purposes and sources of funds; providing for annual carryforward of fund balances; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was referred to the Committee on Appropriations.

By the Fiscal Responsibility Council; and Representative Johnson—

HB 57-E—A bill to be entitled An act relating to trust funds; creating the Workers' Compensation Administration Trust Fund within the Department of Business and Professional Regulation; providing for purposes and sources of funds; providing for annual carryforward of fund balances; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was referred to the Committee on Appropriations.

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has passed HB 53-E and requests the concurrence of the Senate or, failing to concur, requests the Senate to include HB 53-E in the Conference Committee on HB 27-E.

John B. Phelps, Clerk

By the Fiscal Responsibility Council; and Representative Murman—

HB 53-E—A bill to be entitled An act relating to the Department of Children and Family Services; amending s. 216.181, F.S.; providing for the use of funds by the department; amending s. 394.74, F.S.; prescribing a specified contract requirement for local substance abuse and men-

tal health programs; amending s. 394.908, F.S.; revising provisions governing substance abuse and mental health funding equity; amending s. 414.035, F.S.; revising provisions authorizing expenditures by the department for assistance for needy families; amending s. 409.16745, F.S.; abrogating the repeal of the community partnership matching grant program; authorizing the sale of specified hospital complexes and providing for the use of the proceeds; providing an effective date.

—was referred to the Committee on Appropriations.

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has passed HB 3-E and HB 71-E, as amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representatives Alexander, Flanagan, Brummer and Sorensen—

HB 3-E—A bill to be entitled An act relating to governmental reorganization; amending s. 20.04, F.S.; providing an exception to departmental structure requirements; deleting reference to the Department of Banking and Finance and substituting the Department of Financial Services; creating s. 20.121, F.S.; creating the Department of Financial Services; specifying the Chief Financial Officer as the head of the department; providing for departmental structure; creating the Financial Services Commission; providing commission composition, structure, and powers; establishing the Office of Insurance Regulation and the Office of Financial Institutions and Securities Regulation within the commission; providing powers, duties, and responsibilities of such offices; requiring the commission to establish certain additional organizational structure of such offices; providing for appointment and specifying qualifications of directors of such offices; providing for administrative support for such offices; transferring certain programs, including employees and equipment, from the Department of Banking and Finance and the Department of Insurance to the Department of Financial Services, the Office of Insurance Regulation, and the Office of Financial Institutions and Securities Regulation; transferring certain trust funds from the Department of Banking and Finance and the Department of Insurance to the Department of Financial Services, the Office of Insurance Regulation, and the Office of Financial Institutions and Securities Regulation; specifying that certain statutory appointment responsibilities vested by law in certain officers are the responsibility of the Chief Financial Officer; specifying that rules of the Department of Banking and Finance and the Department of Insurance become rules of the Department of Financial Services or the Financial Services Commission; providing for preservation of validity of judicial or administrative actions involving such departments; providing for substitution of certain parties in interest in such actions; creating the Committee of Transition Management; providing for independent function; providing for treatment for administrative purposes as an office of the Executive Office of the Governor; providing for appointment of committee members; specifying powers and duties of the committee; requiring certain reports, proposed organizational plans, and written recommendations to the Financial Services Commission and the Legislature; providing additional legislative intent relating to statutory responsibility for certain appointments becoming the responsibility of the Chief Financial Officer or the Financial Services Commission; providing for conforming legislation; providing for assistance of certain legislative substantive committees by the Division of Statutory Revision for certain purposes; amending s. 1, ch. 2002-194, Laws of Florida; providing an exception to a transfer provided for in said act; amending s. 288.99, F.S.; redefining the terms “early stage technology business” and “qualified distribution”; defining the terms “Program One” and “Program Two”; revising procedures and dates for certification and decertification under Program One and Program Two; revising the process for earning premium tax credits; providing a limitation on tax credits under Program Two; providing for distributions under both programs; requiring the Department of Revenue to adopt certain rules; providing for additional premium; providing for additional allocations of certain insurance premium tax credits under certain circumstances; authorizing the Department of Revenue to adopt rules; amending s. 517.12, Florida Statutes; exempting general lines insurance agents and life insurance agents from registration requirements relating to sales of certain securities in certain circumstances; amending s. 570.07, F.S.; specifying emergency powers of the Commissioner of Agriculture; amending s. 624.91, F.S.; revising provisions of the Florida Healthy Kids

Corporation Act, to conform; creating ss. 633.801, 633.802, 633.803, 633.804, 633.805, 633.806, 633.807, 633.808, 633.809, 633.810, 633.811, 633.812, 633.813, 633.814, 633.815, 633.816, 633.817, 633.818, 633.819, 633.820, and 633.821, F.S.; providing a short title; providing definitions; providing legislative intent; authorizing the Division of State Fire Marshal of the Department of Insurance to adopt rules related to firefighter safety inspections; requiring the division to conduct a study of firefighter occupational diseases; authorizing representatives of the division to enter and inspect any place of firefighter employment; requiring firefighter employers to provide safe employment conditions; authorizing the division to adopt rules that prescribe means for preventing accidents in places of firefighter employment and establish standards for construction, repair, and maintenance; requiring the division to inspect places of firefighter employment and to develop safety and health programs for those firefighter employers whose employees have a high frequency or severity of work-related injuries; requiring certain firefighter employers to establish workplace safety committees and to maintain certain records; providing penalties for firefighter employers who violate provisions of the act; providing exemptions; providing a penalty for the failure to implement a safety and health program and cancellations; providing for expenses of administration; providing penalties for refusal to admit division; specifying firefighter employee rights and responsibilities; providing division remedies for failure to comply; providing penalties for firefighter employers who make false statements to the division or to an insurer; providing criminal penalties for false, malicious, or fraudulent statements and representatives; specifying applicability to volunteer firefighters and fire departments; providing for workplace safety and to authorize the division to adopt rules including federal standards for assuring safe working conditions for all firefighter employees; amending s. 633.31, F.S.; changing the name of and expanding and diversifying the Firefighters Standards and Training Council; amending s. 633.33, F.S.; providing additional duties of the council; amending ss. 383.3362, 633.330, and 633.32, F.S.; conforming language; providing a declaration of important state interest; amending s. 163.05, F.S.; revising legislative findings; providing criteria for contracts between the Commissioner of Agriculture and program providers; deleting responsibilities of the Comptroller and the Legislative Committee on Intergovernmental Relations; authorizing the Commissioner of Agriculture to award contracts to provide assistance to small counties; requiring the Commissioner of Agriculture to provide fiscal oversight and performance reviews; providing an appropriation; providing effective dates.

—was referred to the Committee on Banking and Insurance.

By Representative Murman and others—

HB 71-E—A bill to be entitled An act relating to falsification of records; amending ss. 839.13, 921.0022, F.S.; prescribing penalties for falsifying records of an individual in the care and custody of a state agency; specifying unlawful acts relating to records of the Department of Children and Family Services; providing for construction of the act in pari materia with laws enacted at the 2001 Regular Session; providing an effective date.

—was referred to the Committee on Criminal Justice.

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has passed HB 27-E, as amended, and requests the concurrence of the Senate or, failing to concur, requests the Senate to appoint a committee of conference to meet with a like committee appointed by the Speaker to resolve the differences between the houses.

John B. Phelps, Clerk

By the Fiscal Responsibility Council; and Representative Lacasa—

HB 27-E—A bill to be entitled An act making appropriations; providing moneys for the annual period beginning July 1, 2002, and ending June 30, 2003, to pay salaries, and other expenses, capital outlay - buildings, and other improvements, and for other specified purposes of the various agencies of State government; providing an effective date.

—was referred to the Committee on Appropriations.

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has passed HB 29-E, as amended, and requests the concurrence of the Senate or, failing to concur, requests the Senate to include HB 29-E in the Conference Committee on HB 27-E.

John B. Phelps, Clerk

By the Fiscal Responsibility Council; and Representative Lacasa—

HB 29-E—A bill to be entitled An act implementing the 2002-2003 General Appropriations Act; providing legislative intent; amending s. 236.081, F.S., relating to the Florida Education Finance Program; revising calculation of additional full-time equivalent membership based on the Advanced International Certificate of Education Program; revising the basis of the quality assurance guarantee; amending s. 229.085, F.S.; exempting personnel employed to plan and administer grants or contracts for specific educational projects from requirements for positions in excess of those authorized; providing accounting requirements for the state universities for the 2002-2003 fiscal year; amending s. 236.081, F.S.; deferring application of a method for adjusting a school district's full-time equivalent membership; providing district school boards flexibility in the use of certain categorical appropriations for purposes of academic classroom instruction; amending s. 236.7011, F.S.; deferring application of a restriction on the expenditure of funds received from the indirect cost allowance on federal grants; providing limitation on state appropriations for Knott Data Center and Projects, Contracts, and Grants Programs; amending s. 240.4015, F.S.; extending the time initial award recipients have to complete certain examinations under the Florida Bright Futures Scholarship Testing Program; amending s. 216.181, F.S.; authorizing the Department of Children and Family Services and the Department of Health to advance certain moneys for certain contract services; amending ss. 430.204 and 430.205, F.S.; requiring the Department of Elderly Affairs to fund certain community care services and core services for the elderly; amending s. 216.292, F.S.; authorizing the Department of Children and Family Services to transfer funds within the family safety program; amending s. 401.113, F.S.; providing that moneys in the Emergency Medical Services Trust Fund may also be used for the purpose of funding the rural hospital capital improvement grant program; amending s. 295.182, F.S.; authorizing contributions to the Florida World War II Veterans Memorial Matching Trust Fund from public bodies; amending s. 561.121, F.S.; providing that moneys in the Children and Adolescents Substance Abuse Trust Fund may also be used for the purpose of funding programs directed at reducing and eliminating substance abuse problems among adults; amending s. 381.0066, F.S.; continuing the additional fee on new construction permits for onsite sewage treatment and disposal systems the proceeds of which are used for system research, demonstration, and training projects; authorizing the Department of Law Enforcement to use certain moneys to provide bonuses to employees for meritorious performance, subject to review; amending s. 216.181, F.S.; authorizing the Department of Law Enforcement to transfer positions and associated budget and a certain percentage of salary rate between budget entities and providing requirements with respect thereto; authorizing the Correctional Privatization Commission to make certain expenditures to defray costs incurred by a municipality or county as a result of opening or operating a facility under authority of the commission or the Department of Juvenile Justice; amending s. 16.555, F.S.; authorizing use of the Crime Stoppers Trust Fund to pay for salaries and benefits and other expenses of the Department of Legal Affairs; amending s. 860.158, F.S.; providing directives for the use of moneys in the Florida Motor Vehicle Theft Prevention Trust Fund; amending s. 985.4075, F.S.; prohibiting the use of juvenile justice appropriations made for operations as one-time startup funding for fixed capital outlay; amending s. 932.7055, F.S.; allowing municipal special law enforcement trust funds to be used to reimburse certain loans from municipalities; amending s. 375.041, F.S.; providing for use of moneys allocated to the Land Acquisition Trust Fund as provided in the General Appropriations Act; amending s. 403.709, F.S.; providing for use of moneys allocated to the Solid Waste Management Trust Fund as provided in the General Appropriations Act; amending s. 373.59, F.S.; requiring release of certain moneys by the Secretary of Environmental Protection to water management districts, upon request; amending s. 581.1845, F.S.; revising eligibility for compensation of homeowners under the citrus canker eradication program; prescribing the amount of compensation for trees taken in the citrus canker eradication program; amending

s. 373.470, F.S.; removing a requirement to deposit certain funds into the Save Our Everglades Trust Fund; amending s. 216.181, F.S.; allowing transfers of positions and funds among departments necessary for implementation of the office of Chief Financial Officer; requiring approval by the Legislative Budget Commission; amending s. 403.7095, F.S.; prescribing conditions on solid waste management and recycling grants; amending s. 215.981, F.S.; exempting certain citizen support organizations for the Department of Environmental Protection from the requirement to have an independent audit; amending s. 287.161, F.S.; requiring the Department of Management Services to charge all persons receiving transportation from the executive aircraft pool a specified rate; amending s. 403.1835, F.S.; authorizing a temporary moratorium in certain counties on reserve requirements for certain water pollution control loans; exempting thoroughbred permitholders from fine or suspension or revocation of license or permit for failure to meet performance and tax requirements; amending s. 255.25, F.S.; exempting certain leases entered into by the state agencies from leasing requirements under specified circumstances; amending s. 110.152, F.S.; authorizing the Department of Management Services to make lump-sum payments for adoption benefits for state employees; amending s. 110.2035, F.S.; revising provisions governing the classification and compensation program for state employees; requiring the Department of Management Services to adopt rules, including emergency rules, necessary to implement such program; amending s. 110.12315, F.S.; providing copayment requirements for the state employees' prescription drug program; providing for a preferred brand name drug list to be used in the administration of such program; amending s. 110.1239, F.S.; providing requirements for the funding of the state group health insurance program; amending s. 112.061, F.S.; providing for computation of travel time and reimbursement for public officers' and employees' travel; amending s. 163.3184, F.S.; prescribing standards for the state land planning agency to use when issuing notice of intent on a comprehensive plan or plan amendment; amending s. 252.373, F.S.; providing for use of certain funds of the Emergency Management, Preparedness, and Assistance Trust Fund for purposes of local disaster preparedness and as state match for federally approved Hazard Mitigation Grant Program projects; amending s. 288.063, F.S.; providing that certain transportation projects may be designated and funded by the Legislature as necessary for economic development; amending s. 402.3017, F.S.; providing for administration of the Teacher Education and Compensation Helps (TEACH) scholarship program; amending s. 125.35, F.S.; authorizing counties to lease certain property in empowerment zones for certain public purposes; amending s. 338.2216, F.S.; providing that certain positions under the Florida Turnpike Enterprise remain in the career service; amending s. 339.12, F.S.; deferring application of a provision granting preference to certain counties for transportation grants under specified circumstances; amending s. 411.01, F.S.; providing priority for placement of children in the school readiness program; amending s. 215.20, F.S.; appropriating the service charges on certain income and trust funds to the General Revenue Fund; amending s. 215.22, F.S.; exempting certain income and trust funds from such appropriation; amending s. 18.10, F.S.; appropriating certain investment earnings to the General Revenue Fund; amending s. 18.125, F.S.; revising investment requirements for certain trust funds; amending ss. 14.2015, 240.4075, 385.207, 860.158, and 938.01, F.S., to conform; providing for future repeal or expiration of various provisions; providing for reversion of certain provisions; providing effect of veto of specific appropriation or proviso to which implementing language refers; providing applicability to other legislation; incorporating by reference specified performance measures and standards directly linked to the appropriations made in the 2001-2002 General Appropriations Act, as required by the Government Performance and Accountability Act of 1994; providing severability; providing effective dates.

—was referred to the Committee on Appropriations.

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has passed HB 59-E, as amended, and requests the concurrence of the Senate or, failing to concur, requests the Senate to include HB 59-E in the Conference Committee on HB 27-E.

John B. Phelps, Clerk

By the Fiscal Responsibility Council; and Representative Murman—

HB 59-E—A bill to be entitled An act relating to health care; amending s. 112.3187, F.S.; revising procedures and requirements relating to whistle-blower protection for reporting Medicaid fraud or abuse; amending s. 400.141, F.S.; requiring licensed nursing home facilities to maintain general and professional liability insurance coverage; requiring facilities to submit information to the Agency for Health Care Administration which shall provide reports regarding facilities' litigation, complaints, and deficiencies; amending s. 400.147, F.S.; revising reporting requirements under facility internal risk management and quality assurance programs; providing for funding to expedite the availability of nursing home liability insurance; amending s. 400.179, F.S.; providing an alternative to certain bond requirements for protection against nursing home Medicaid overpayments; providing for review and rulemaking authority of the Agency for Health Care Administration; providing for future repeal; requiring a report; creating s. 408.831, F.S.; authorizing the Agency for Health Care Administration to take action against a regulated entity under certain circumstances; reenacting s. 409.8132(4), F.S., to incorporate amendments to ss. 409.902, 409.907, 409.908, and 409.913, F.S., in references thereto; amending s. 409.8177, F.S.; requiring the agency to contract for evaluation of the Florida Kidcare program; amending s. 409.902, F.S.; requiring consent for release of medical records to the agency and the Medicaid Fraud Control Unit as a condition of Medicaid eligibility; amending s. 409.903, F.S.; revising eligibility for certain Medicaid mandatory medical assistance; amending s. 409.904, F.S.; revising eligibility standards for certain Medicaid optional medical assistance; amending s. 409.9065, F.S.; revising eligibility standards for the pharmaceutical expense assistance program; amending s. 409.907, F.S.; prescribing additional requirements with respect to Medicaid provider enrollment; requiring the agency to deny a provider's application under certain circumstances; amending s. 409.908, F.S.; requiring retroactive calculation of cost report if requirements for cost reporting are not met; revising provisions relating to rate adjustments to offset the cost of general and professional liability insurance for nursing homes; extending authorization for special Medicaid payments to qualified providers; providing for intergovernmental transfer of payments; amending s. 409.911, F.S.; expanding application of definitions; amending s. 409.9116, F.S.; revising applicability of the disproportionate share/financial assistance program for rural hospitals; amending s. 409.91195, F.S.; granting interested parties opportunity to present public testimony before the Medicaid Pharmaceutical and Therapeutics Committee; amending s. 409.912, F.S.; providing requirements for contracts for Medicaid behavioral health care services; amending s. 409.9122, F.S.; revising procedures relating to assignment of a Medicaid recipient to a managed care plan or MediPass provider; granting agency discretion to renew contracts; amending s. 409.913, F.S.; requiring the agency and the Medicaid Fraud Control Unit to annually submit a joint report to the Legislature; defining the term "complaint" with respect to Medicaid fraud or abuse; specifying additional requirements for the Medicaid program integrity program and the Medicaid Fraud Control Unit; providing additional sanctions and disincentives which may be imposed; providing additional grounds for termination of a provider's participation in the Medicaid program; providing additional requirements for administrative hearings; providing additional grounds for withholding payments to a provider; authorizing the agency and the Medicaid Fraud Control Unit to review certain records; amending s. 409.920, F.S.; providing additional duties of the Attorney General with respect to Medicaid fraud control; amending s. 624.91, F.S.; revising duties of the Florida Healthy Kids Corporation with respect to annual determination of participation in the Healthy Kids program; prescribing duties of the corporation in establishing local match requirements; revising composition of the board of directors; amending s. 383.19, F.S.; revising limitation on the establishment of regional perinatal intensive care centers; amending s. 393.063, F.S.; revising definition of the term "intermediate care facility for the developmentally disabled" for purposes of ch. 393, F.S.; amending ss. 400.965 and 400.968, F.S.; providing penalties for violation of pt. XI of ch. 400, F.S., relating to intermediate care facilities for developmentally disabled persons; requiring the Department of Children and Family Services to develop and implement a comprehensive redesign of the home and community-based services delivery system for persons with developmental disabilities; restricting certain release of funds; providing an implementation schedule; requiring the Agency for Health Care Administration to conduct a study of health care services provided to children who are medically fragile or dependent on medical technology; requiring the agency to conduct a pilot program for a subacute pediatric transitional care center; requiring background screening of center personnel; requiring the agency to amend the Medicaid state

plan or seek federal waivers as necessary; requiring the center to have an advisory board; providing for membership and duties of the advisory board; providing requirements for the admission, transfer, and discharge of a child to the center; requiring the agency to submit certain reports to the Legislature; requiring the agency to make recommendations to the Legislature regarding limitations on certain Medicaid provider reimbursements; providing guidelines for the agency regarding distribution of disproportionate share funds during the 2002-2003 fiscal year; directing the Office of Program Policy Analysis and Government Accountability to perform a study of county contributions to Medicaid nursing home costs; requiring a report and recommendations; repealing s. 1, ch. 2001-377, Laws of Florida, relating to eligibility of specified persons for certain optional medical assistance; providing severability; providing effective dates.

—was referred to the Committee on Appropriations.

RETURNING MESSAGES ON HOUSE BILLS

The Honorable John M. McKay, President

I am directed to inform the Senate that the Speaker has appointed the following Representatives to the Conference Committee on HB 27-E: Representative Lacasa, Chair, Representatives Alexander, Greenstein, and Rubio, At-Large Members; Representative Ball, Chair, Representatives Barriero, Bowen, Haridopolos, Meadows, and Seiler, Criminal Justice Appropriations; Representative Lynn, Chair, Representatives Arza, Baxley, Detert, Flanagan, Gottlieb, Henriquez, Mealor, and Melvin, Education Appropriations; Representative Dockery, Chair, Representatives Harrington, Kendrick, Kilmer, Mack, Ritter, Sorensen, and Representative Harrell, Alternate, General Government Appropriations; Representative Murman, Chair, Representatives Benson, Farkas, Garcia, Maygarden, Rich, Sobel, and Representative Hogan, Alternate, Health and Human Services Appropriations; Representative Johnson, Chair, Representatives Allen, Berfield, Cusack, Jennings, Mayfield, and Representative Mahon, Alternate, Transportation and Economic Development Appropriations.

John B. Phelps, Clerk

HB 27-E—A bill to be entitled An act making appropriations; providing moneys for the annual period beginning July 1, 2002, and ending June 30, 2003, to pay salaries, and other expenses, capital outlay - buildings, and other improvements, and for other specified purposes of the various agencies of State government; providing an effective date.

RETURNING MESSAGES—FINAL ACTION

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has passed SB 46-E.

John B. Phelps, Clerk

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required constitutional two-thirds vote of the membership of the House and passed SB 32-E.

John B. Phelps, Clerk

The bills contained in the foregoing messages were ordered enrolled.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 2 was corrected and approved.

CO-SPONSORS

Senator Campbell—CS for SB's 42-E and 26-E

RECESS

On motion by Senator Lee, the Senate recessed at 1:20 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene upon call of the President.