



Journal of the Senate

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CALL TO ORDER

The Senate was called to order by President Lee at 10:25 a.m. A quorum present—39:

Mr. President	Dawson	Miller
Alexander	Diaz de la Portilla	Peaden
Argenziano	Dockery	Posey
Aronberg	Fasano	Pruitt
Atwater	Garcia	Rich
Baker	Geller	Saunders
Bennett	Haridopolos	Sebesta
Bullard	Hill	Siplin
Campbell	Jones	Smith
Carlton	King	Villalobos
Clary	Klein	Webster
Constantine	Lynn	Wilson
Crist	Margolis	Wise

Excused: Senator Lawson until 2 p.m.

PRAYER

The following prayer was offered by the Rev. Doctor Betsy Steier, Senior Minister, First Christian Church, Tampa:

Almighty and loving God, we give you thanks for the precious gift of this day, a new day of life. We seek your presence in this session, and give you thanks for these individuals who have been chosen and who answered the call to serve the people of this beautiful state.

You have given them strength, as they have spent days, weeks and months apart from their homes and families, to make decisions that affect all of our homes and families. You have given them wisdom, to discern with your guidance and direction. You have given them compassion, to serve in the spirit of care and love for the people whom you have entrusted to them. You have given them perseverance, to continue forward in the midst of difficulties.

May you continue to bless them in these final days of session with that same strength, wisdom, compassion, and perseverance. Guide them in all problems and possibilities, all obstacles and opportunities, so that when all is done, they may be at peace and joy in knowing that what they have done and sacrificed has been in the spirit of your love.

To the glory of God, we pray and serve. Amen.

PLEDGE

Senate Pages Karl-Michael Heinle of Miami; Michael Jack of Ft. Lauderdale; Annabelle Carbonell of Orlando; and Jessica Lee Jones of Windermere, led the Senate in the pledge of allegiance to the flag of the United States of America.

ADOPTION OF RESOLUTIONS

On motion by Senator Klein—

By Senator Klein—

SR 754—A resolution recognizing the 25th Anniversary of the Jewish Federation of South Palm Beach County, the 20th Anniversary of their Jewish Community Foundation, and the bar mitzvah year of the Richard and Carole Siemens Campus.

WHEREAS, the Jewish Federation of South Palm Beach County and the Jewish Community Foundation this year celebrate their 25th and 20th Anniversaries, respectively, and

WHEREAS, beginning humbly in Boca Raton as a small satellite office of the West Palm Beach-based Jewish Federation of Palm Beach County, the Jewish Federation has become one of the most active and prominent in the country and grown from a membership of 37,000 people in 1980 to more than 130,000 today, and

WHEREAS, this vigorous development was spearheaded by James Baer, who recognized the need for a separate federation in Palm Beach County, and by Roy Flack, Stanley Katz, and Richard Siemens, who donated land for a federation site west of Boca Raton, and

WHEREAS, the Federation’s vibrant Richard and Carole Siemens Campus, built on that land, is celebrating its bar mitzvah year with improvements to its facilities and its security, and the Jewish Federation has also expanded to both the North Campus and the Weinberg Center in Delray Beach, and

WHEREAS, through the vigorous work of its lay leadership and its dedicated professionals, and with the generous support of its membership, the Jewish Federation of South Palm Beach County has accomplished great things over the past quarter century in working toward its primary goal -- to make life better for Jews no matter where they live, and

WHEREAS, the Jewish Federation has raised hundreds of millions of dollars to rescue, educate, and comfort needy Jews in our state and region and in dozens of countries around the world, and has joined its efforts with, and continues to support, the Ruth Rales Jewish Family Center, the Donna Klein Jewish Academy, the Adolph and Rose Levis Jewish Community Center, the Jewish Association for Residential Care, and other local, national, and international social service agencies and educational institutions, and

WHEREAS, the Jewish Federation and its Foundation have fulfilled the promises of their motto -- “Honoring our roots. Living our values. Strengthening our future.” -- and continue to provide a shining example of community spirit and humane and enlightened social action, NOW, THEREFORE,

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

That the Senate recognizes and commends the community-building and human welfare accomplishments of the Jewish Federation of South Palm Beach County and the Jewish Community Foundation on their 25th and 20th Anniversaries, respectively, and also recognizes the bar

mitzvah year of the Richard and Carole Siemens Campus and its expansion and development as landmarks of the vision and commitment of these exemplary organizations.

—was introduced out of order and read by title. On motion by Senator Klein, **SR 754** was read the second time in full and adopted.

By direction of the President, the rules were waived and the Senate proceeded to—

SPECIAL ORDER CALENDAR

Consideration of **SB 342** and **CS for SB 1730** was deferred.

CS for SCR 2024—A concurrent resolution providing that Joint Rule 1 of the Joint Rules of the Legislature, relating to legislative lobbying, is superseded by the provisions of Committee Substitute for Senate Bill 2646 to the extent that such Joint Rule conflicts with or is inconsistent with the provisions of Committee Substitute for Senate Bill 2646, as enacted by the Legislature; authorizing technical and stylistic changes to conform the Joint Rules of the Legislature; providing for publication in the journals of the respective houses of the Legislature.

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

That, effective January 1, 2006, Joint Rule 1 of the Joint Rules of the Legislature, relating to legislative lobbyist registration and reporting, is superseded by and amended to conform to the provisions of Committee Substitute for Senate Bill 2646 to the extent that such Joint Rule conflicts with or is inconsistent with Committee Substitute for Senate Bill 2646, as enacted by the Legislature. Joint Rule 1, as created herein, shall remain in effect until amended by the Legislature.

BE IT FURTHER RESOLVED that the Secretary of the Senate and the Clerk of the House of Representatives are authorized and directed to make technical and stylistic changes to conform the Joint Rules of the Legislature to the provisions of this Concurrent Resolution and to publish the same in the Journal of the Senate and the Journal of the House of Representatives no later than January 1, 2006.

—was read the second time in full. On motion by Senator Posey, **CS for SCR 2024** was adopted and certified to the House.

Consideration of **CS for CS for SB 486** was deferred.

On motion by Senator Sebesta, by two-thirds vote **HB 1025** was withdrawn from the Committees on Transportation; Criminal Justice; and Justice Appropriations.

On motion by Senator Sebesta—

HB 1025—A bill to be entitled An act relating to the misuse of laser lighting devices; amending s. 784.062, F.S.; revising the definition of “laser lighting device”; providing that any person who knowingly and willfully aims a laser lighting device at a person operating a motor vehicle, vessel, or aircraft commits a felony of the third degree; providing that any person who causes bodily harm while improperly pointing the laser lighting device at the operator of a motor vehicle, vessel, or aircraft commits a felony of the second degree; providing penalties; providing an effective date.

—a companion measure, was substituted for **CS for SB 830** and read the second time by title.

Pursuant to Rule 4.19, **HB 1025** was placed on the calendar of Bills on Third Reading.

On motion by Senator Haridopolos—

CS for SB 2348—A bill to be entitled An act relating to the tax on intangible personal property; amending s. 199.032, F.S.; reducing the annual rate of the tax; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 2348** was placed on the calendar of Bills on Third Reading.

On motion by Senator Smith, by two-thirds vote **HB 643** was withdrawn from the Committees on Agriculture; Commerce and Consumer Services; Government Efficiency Appropriations; and Ways and Means.

On motion by Senator Smith—

HB 643—A bill to be entitled An act relating to an exemption from the tax on sales, use, and other transactions for farm equipment; amending s. 212.02, F.S.; revising definitions; amending s. 212.08, F.S.; making total a partial exemption for certain farm equipment; amending s. 212.12, F.S.; correcting a cross reference to conform; providing an effective date.

—a companion measure, was substituted for **CS for SB 696** and read the second time by title.

Pursuant to Rule 4.19, **HB 643** was placed on the calendar of Bills on Third Reading.

On motion by Senator Webster—

SB 2572—A bill to be entitled An act relating to nursing home fire-safety; amending s. 633.022, F.S.; requiring nursing homes to be protected by certain automatic sprinkler systems; providing a schedule; authorizing the Division of State Fire Marshal to grant certain time extensions; authorizing the division to adopt certain rules; providing for administrative sanctions under certain circumstances; requiring adjustments to certain provider Medicaid rates for reimbursement for Medicaid's portion of costs to meet certain requirements; requiring funding for such adjustments to come from existing nursing home appropriations; creating s. 633.024, F.S.; providing legislative findings and intent; creating s. 633.0245, F.S.; authorizing the State Fire Marshal to enter into an investment agreement with public depositories to establish the State Fire Marshal Nursing Home Fire Protection Loan Guarantee Program as a limited loan guarantee program to retrofit nursing homes with fire protection systems; providing investment and agreement limitations; requiring the State Fire Marshal to solicit requests for proposals; providing for application requirements and procedures; providing for review and approval by the State Fire Marshal; providing application requirements and procedures for program loans by public depositories; providing deadlines and limitations; limiting certain claims for loss under certain circumstances; providing a definition; authorizing the State Fire Marshal to adopt rules; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 2572** to **HB 1267**.

Pending further consideration of **SB 2572** as amended, on motion by Senator Webster, by two-thirds vote **HB 1267** was withdrawn from the Committees on Community Affairs; Regulated Industries; Banking and Insurance; and Government Efficiency Appropriations.

On motion by Senator Webster—

HB 1267—A bill to be entitled An act relating to nursing homes; amending s. 400.23, F.S.; providing for alternative bed locations in nursing home rooms and providing criteria for bed placement; requiring a signed statement from the resident or representative if the alternative bed placement is not in compliance with the Florida Building Code; requiring the facility to maintain a log of alternative bed placements and to retain the signed statements; requiring the nursing home to notify the Agency for Health Care Administration with respect to such practice; amending s. 633.022, F.S.; requiring nursing homes to be protected by certain automatic sprinkler systems; providing a schedule; authorizing the Division of State Fire Marshal to grant certain time extensions; authorizing the division to adopt certain rules; providing for administrative sanctions under certain circumstances; requiring adjustments to certain provider Medicaid rates for reimbursement for Medicaid's portion of costs to meet certain requirements; requiring funding for such

adjustments to come from existing nursing home appropriations; creating s. 633.024, F.S.; providing legislative findings and intent; creating s. 633.0245, F.S.; authorizing the State Fire Marshal to enter into an investment agreement with public depositories to establish the State Fire Marshal Nursing Home Fire Protection Loan Guarantee Program as a limited loan guarantee program to retrofit nursing homes with fire protection systems; providing investment and agreement limitations; requiring the State Fire Marshal to solicit requests for proposals; providing for application requirements and procedures; providing for review and approval by the State Fire Marshal; providing application requirements and procedures for program loans by public depositories; providing deadlines and limitations; limiting certain claims for loss under certain circumstances; providing a definition; authorizing the State Fire Marshal to adopt rules; providing an effective date.

—a companion measure, was substituted for **SB 2572** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 1267** was placed on the calendar of Bills on Third Reading.

On motion by Senator Clary—

CS for SB 664—A bill to be entitled An act relating to acceleration mechanisms; amending s. 1002.20, F.S.; adding programs to list of public school choice options; amending s. 1002.23, F.S.; adding programs to list of rigorous academic programs included in parent guide; amending s. 1007.22, F.S.; adding Advanced International Certificate of Education programs to acceleration mechanisms requiring postsecondary institution collaboration; amending s. 1007.261, F.S.; revising list of courses of courses designated as advanced level fine arts courses; amending s. 1007.27, F.S.; providing an exemption from examination fees for students enrolled in the International General Certificate of Secondary Education Program; amending s. 1007.271, F.S.; specifying that dual enrollment courses are creditable toward high school graduation; revising instructional time requirements and providing for FTE calculation; conforming to law minimum academic credits required for graduation; clarifying requirements for participation of independent postsecondary institutions in a dual enrollment program; providing for fee exemption; amending s. 1009.531, F.S.; providing additional course weights for Florida Bright Futures Scholarship Program eligibility determination; amending s. 1009.534, F.S.; revising Florida Academic Scholars award eligibility requirements to include students completing or receiving an Advanced International Certificate of Education curriculum or diploma; amending s. 1009.535, F.S.; revising Florida Medallion Scholars award eligibility requirements to include students completing an Advanced International Certificate of Education curriculum; amending s. 1011.62, F.S.; providing for FTE calculation for dual enrollment instruction; revising Advanced International Certificate of Education test score requirements necessary to generate funding to match current test scoring scale; providing formula for calculating additional full-time equivalent membership based on International General Certificate of Secondary Education examination scores and program completion; reenacting s. 1011.69(2), F.S., relating to equity in school-level funding, to incorporate the amendment to s. 1011.62, F.S., in a reference thereto; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 664** to **HB 579**.

Pending further consideration of **CS for SB 664** as amended, on motion by Senator Clary, by two-thirds vote **HB 579** was withdrawn from the Committees on Education; and Education Appropriations.

On motion by Senator Clary—

HB 579—A bill to be entitled An act relating to acceleration mechanisms; amending s. 1002.20, F.S.; adding programs to list of public school choice options; amending s. 1002.23, F.S.; adding programs to list of rigorous academic programs included in parent guide; amending s. 1007.22, F.S.; adding Advanced International Certificate of Education programs to acceleration mechanisms requiring postsecondary institution collaboration; amending s. 1007.261, F.S.; revising list of courses designated as advanced level fine arts courses; amending s. 1007.27, F.S.; providing an exemption from examination fees for students enrolled in the International General Certificate of Secondary Education

Program; amending s. 1007.271, F.S.; specifying that dual enrollment courses are creditable toward high school completion; revising instructional time requirements and providing for FTE calculation; conforming to law minimum academic credits required for graduation; clarifying requirements for participation of independent postsecondary institutions in a dual enrollment program; providing for fee exemption; amending s. 1009.531, F.S.; providing additional course weights for Florida Bright Futures Scholarship Program eligibility determination; amending s. 1009.534, F.S.; revising Florida Academic Scholars award eligibility requirements to include students completing or receiving an Advanced International Certificate of Education curriculum or diploma; amending s. 1009.535, F.S.; revising Florida Medallion Scholars award eligibility requirements to include students completing an Advanced International Certificate of Education curriculum; amending s. 1011.62, F.S.; providing for FTE calculation for dual enrollment instruction; revising Advanced International Certificate of Education test score requirements necessary to generate funding to match current test scoring scale; providing an effective date.

—a companion measure, was substituted for **CS for SB 664** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 579** was placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for CS for SB 2068** was deferred.

On motion by Senator Klein—

SB 1450—A bill to be entitled An act relating to arthritis prevention and education; creating s. 385.210, F.S.; providing a short title; providing legislative findings; providing purposes; directing the Department of Health to establish an arthritis prevention and education program; requiring the department to conduct a needs assessment; providing for establishment of an advisory panel on arthritis; providing for implementation of a public awareness effort; providing for funding through contributions; directing the Secretary of Health to seek federal waivers as necessary to maximize federal funding; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 1450** was placed on the calendar of Bills on Third Reading.

On motion by Senator Pruitt—

HB 1907—A bill to be entitled An act relating to retirement; amending s. 121.71, F.S.; revising the payroll contribution rates for the membership classes of the Florida Retirement System for the state fiscal years effective July 1, 2005, and July 1, 2006; providing an effective date.

—was read the second time by title.

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

Amendment 1 (725822)(with title amendment)—Delete everything after the enacting clause, and insert:

Section 1. Section 121.71, Florida Statutes, is amended to read:

121.71 Uniform rates; process; calculations; levy.—

(1) In conducting the system actuarial study required under s. 121.031, the actuary shall follow all requirements specified thereunder to determine, by Florida Retirement System employee membership class, the dollar contribution amounts necessary for the forthcoming fiscal year for the defined benefit program. In addition, the actuary shall determine, by Florida Retirement System membership class, based on an estimate for the forthcoming fiscal year of the gross compensation of employees participating in the optional retirement program, the dollar contribution amounts necessary to make the allocations required under ss. 121.72 and 121.73. For each employee membership class and subclass, the actuarial study shall establish a uniform rate necessary to

fund the benefit obligations under both Florida Retirement System retirement plans, by dividing the sum of total dollars required by the estimated gross compensation of members in both plans.

(2) Based on the uniform rates set forth in subsection (3), employers shall make monthly contributions to the Division of Retirement, which shall initially deposit the funds into the Florida Retirement System Contributions Clearing Trust Fund. A change in a contribution rate is effective the first day of the month for which a full month's employer contribution may be made on or after the beginning date of the change.

(3) Required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

Membership Class	Percentage of Gross Compensation, Effective July 1, 2005	Percentage of Gross Compensation, Effective July 1, 2006
Regular Class	6.20%	9.53% 9.98%
Special Risk Class	17.34%	21.91% 22.16%
Special Risk Administrative Support Class	8.73%	12.39% 12.55%
Elected Officers' Class – Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	11.30%	14.86% 15.82%
Elected Officers' Class – Justices, Judges	17.46%	20.43% 20.78%
Elected Officers' Class – County Elected Officers	14.04%	17.00% 17.73%
Senior Management Class	8.18%	13.27% 11.64%
DROP	8.00%	11.74% 11.56%

(4) The state actuary shall recognize and use an appropriate level of available excess assets of the Florida Retirement System Trust Fund to offset the difference between the normal costs of the Florida Retirement System and the statutorily prescribed contribution rates.

Section 2. Subsection (12) of section 121.40, Florida Statutes, is amended to read:

121.40 Cooperative extension personnel at the Institute of Food and Agricultural Sciences; supplemental retirement benefits.—

(12) CONTRIBUTIONS.—

(a) For the purposes of funding the supplemental benefits provided by this section, the institute is authorized and required to pay, commencing July 1, 1985, the necessary monthly contributions from its appropriated budget. These amounts shall be paid into the Institute of Food and Agricultural Sciences Supplemental Retirement Trust Fund, which is hereby created.

(b) The monthly contributions required to be paid pursuant to paragraph (a) on the gross monthly salaries, from all sources with respect to such employment, paid to those employees of the institute who hold both state and federal appointments and who participate in the federal Civil Service Retirement System shall be as follows:

Dates of Contribution Rate Changes	Percentage Due
July 1, 1985, through December 31, 1988	6.68%
January 1, 1989, through December 31, 1993	6.35%
January 1, 1994, through December 31, 1994	6.69%
January 1, 1995, through June 30, 1996	6.82%
July 1, 1996, through June 30, 1998	5.64%
July 1, 1998, through June 30, 2001	7.17%
July 1, 2001, through June 30, 2003	6.96%
Effective July 1, 2003, through June 30, 2005	13.83%
Effective July 1, 2005, through June 30, 2007	20.23%

Section 3. *The Legislature finds that a proper and legitimate state purpose is served when employees and retirees of the state and its political*

subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems. These persons must be provided benefits that are fair and adequate and that are managed, administered, and funded in an actuarially sound manner, as required by Section 14, Article X of the State Constitution, and part VII of chapter 112, Florida Statutes. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 4. Section 121.74, Florida Statutes, is amended to read:

121.74 Administrative and educational expenses.—~~Effective July 1, 2004,~~ In addition to contributions required under s. 121.71, employers participating in the Florida Retirement System shall contribute an amount equal to ~~0.05~~ ~~0.08~~ percent of the payroll reported for each class or subclass of Florida Retirement System membership, which amount shall be transferred by the Division of Retirement from the Florida Retirement System Contributions Clearing Trust Fund to the State Board of Administration's Administrative Trust Fund to offset the costs of administering the optional retirement program and the costs of providing educational services to participants in the defined benefit program and the optional retirement program. Approval of the Trustees of the State Board of Administration is required prior to the expenditure of these funds. Payments for third-party administrative or educational expenses shall be made only pursuant to the terms of the approved contracts for such services.

Section 5. This act shall take effect July 1, 2005.

And the title is amended as follows:

Delete everything before the enacting clause, and insert: A bill to be entitled An act relating to retirement; amending s. 121.71, F.S.; revising the payroll contribution rates for the membership classes of the Florida Retirement System for the state fiscal years effective July 1, 2005, and July 1, 2006; amending s. 121.40, F.S.; revising the payroll contribution rate for the Institute of Food and Agricultural Sciences, effective July 1, 2005; providing a declaration of important state interest; amending s. 121.74, F.S.; reducing the administrative and educational assessments paid to the State Board of Administration; providing an effective date.

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

Amendment 1A (035516)—On page 2, line 18 through page 3, line 10, delete those lines and insert:

Membership Class	Percentage of Gross Compensation, Effective July 1, 2005	Percentage of Gross Compensation, Effective July 1, 2006
Regular Class	6.67% 6.20%	9.53% 9.98%
Special Risk Class	17.37% 17.34%	21.91% 22.16%
Special Risk Administrative Support Class	8.76% 8.73%	12.39% 12.55%
Elected Officers' Class – Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	11.33% 11.30%	14.86% 15.82%
Elected Officers' Class – Justices, Judges	17.49% 17.46%	20.43% 20.78%
Elected Officers' Class – County Elected Officers	14.07% 14.04%	17.00% 17.73%
Senior Management Class	9.29% 8.18%	13.27% 11.64%
DROP	8.22% 8.00%	11.74% 11.56%

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **HB 1907** as amended was placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 1458** was deferred.

On motion by Senator Atwater—

CS for SB 2032—A bill to be entitled An act relating to tax administration; amending s. 95.091, F.S.; adding a cross-reference; amending s. 198.32, F.S.; allowing an estate that is not required to file a federal tax return to file with the clerk of the court an affidavit attesting that no Florida estate tax is due, regardless of the decedent's date of death; amending s. 199.135, F.S.; providing special provisions for the imposition of the nonrecurring intangibles tax imposed by this section on the sale of a timeshare interest in a timeshare plan; amending s. 201.02, F.S.; providing special provisions for the imposition of the tax on deeds or other instruments relating to real property or interests in real property imposed by this section on the sale of a timeshare interest in a timeshare plan; amending s. 201.08, F.S.; providing special provisions for the imposition of the tax on promissory or nonnegotiable notes or written obligations to pay money imposed by this section on the sale of a timeshare interest in a timeshare plan; amending s. 202.11, F.S.; providing an additional definition of the term "service address" for the purposes of the tax on communications services; amending ss. 206.09, 206.095, 206.14, and 206.485, F.S., relating to fuel taxes; providing for the distribution of penalties; amending s. 206.27, F.S.; allowing the Department of Revenue the option of posting the list of active and canceled fuel licenses on the departmental web site or mailing it to licensees; amending s. 212.0305, F.S.; permitting golf courses to be built with the proceeds of a charter county convention development tax; amending s. 212.05, F.S.; clarifying the tax treatment of nonresident purchasers of aircraft; amending s. 212.06, F.S.; clarifying that sales tax is not due on any vessel imported into this state for the sole purpose of being offered for retail sale by a registered Florida yacht broker or dealer under certain conditions; amending s. 212.12, F.S.; including in the definition of tax fraud willful attempts to evade a tax, surcharge, or fee imposed by chapter 212, F.S.; amending s. 213.053, F.S.; authorizing expanded sharing of confidential information between the Department of Revenue and the Department of Agriculture and Consumer Services for the Bill of Lading Program; amending s. 213.21, F.S.; specifying which taxes qualify for the automatic penalty compromise or settlement of liability; providing for retroactivity; amending s. 213.27, F.S.; clarifying that the notification by the Department of Revenue to the taxpayer that the taxpayer's account is being referred to a debt collection agency must be at least 30 days before the referral; amending s. 215.26, F.S.; adding a cross-reference; amending s. 252.372, F.S.; authorizing the Florida Surplus Lines Service Office to collect the Emergency Management, Preparedness, and Assistance Trust Fund surcharge and deposit the proceeds into the trust fund; amending s. 443.131, F.S.; requiring employers who transfer their business to a related entity to retain their unemployment experience history under certain circumstances; providing penalties; amending s. 443.141, F.S.; authorizing the Department of Revenue to send to employers by regular mail notices of unemployment tax assessments and notices of the filing of liens; creating s. 624.50921, F.S.; creating a statute of limitations for assessments of the insurance premium tax if the amount of corporate income tax or a workers' compensation administrative assessment paid by the insurer is adjusted through an amended return or refund; amending s. 624.509, F.S.; providing for an alternative method of calculating a tax credit against the insurance premium tax for certain groups of affiliated corporations; clarifying the definition of the term "employees" for purposes of calculating such a credit; authorizing the department to adopt rules to administer such a credit; providing legislative intent regarding the meaning of the term "employees" for purposes of determining the salary credit against the insurance premium tax; reviving and readopting s. 213.21, F.S., relating to informal conference procedures within the Department of Revenue; exempting from the documentary stamp tax certain security agreements recorded in error or by mistake; providing effective dates.

—was read the second time by title.

Senator Atwater moved the following amendments which were adopted:

Amendment 1 (415908)(with title amendment)—On page 44, lines 25 and 26, delete those lines and insert:

5. A service company that is a subsidiary of a mutual insurance holding company, which mutual insurance holding company was in existence on or before January 1, 2000, shall allocate the salary of each service company employee covered by contracts with members of the mutual insurance holding company system to the companies for which the employees perform services. The salary allocation is based on the ratio of

the amount of time during the tax year which the individual employee spends performing services or otherwise working for each company to the total amount of time the employee spends performing services or otherwise working for all companies. The total amount of salary allocated to an insurance company within the mutual insurance holding company system shall be included as that insurer's employee salaries for purposes of this section. However, this subparagraph does not apply for any tax year unless funds sufficient to offset the anticipated salary credits have been appropriated to the General Revenue Fund prior to the due date of the final return for that year.

a. The term "mutual insurance holding company system" means two or more corporations that are subsidiaries of a mutual insurance holding company and in compliance with part IV of chapter 628.

b. The term "service company" means a separate corporation within the mutual insurance holding company system whose employees provide services to other members of the mutual insurance holding company system and are treated as service company employees for unemployment compensation and common-law purposes. The mutual insurance holding company may not qualify as a service company.

c. If an insurance company fails to substantiate, whether by means of adequate records or otherwise, its eligibility to claim the service company exception under this section, or its salary allocation under this section, no credit shall be allowed.

(c) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this subsection.

Section 26. The sum of \$2.6 million is appropriated from the Workers' Compensation Administration Trust Fund to the General Revenue Fund for the 2005-2006 fiscal year.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, lines 25-27, delete those lines and insert: of calculating such a credit; allowing a salary credit for employees of a service company subsidiary of a mutual insurance holding company; providing an exception; authorizing the department to adopt rules to administer such a credit; providing an appropriation; providing legislative intent regarding

Amendment 2 (213498)(with title amendment)—On page 45, between lines 20 and 21, insert:

Section 29. Subsection (4) of section 201.23, Florida Statutes, is amended to read:

201.23 Foreign notes and other written obligations exempt.—

(4)(a) The excise taxes imposed by this chapter shall not apply to the documents, notes, evidences of indebtedness, financing statements, drafts, bills of exchange, or other taxable items dealt with, made, issued, drawn upon, accepted, delivered, shipped, received, signed, executed, assigned, transferred, or sold by or to a banking organization, as defined in s. 199.023(9), in the conduct of an international banking transaction, as defined in s. 199.023(11). Nothing in this subsection shall be construed to change the application of paragraph (2)(a).

(b) For purposes of this subsection, the term:

1. "Banking organization" means:

a. A bank organized and existing under the laws of any state;

b. A national bank organized and existing pursuant to the provisions of the National Bank Act, 12 U.S.C. ss. 21 et seq.;

c. An Edge Act corporation organized pursuant to the provisions of s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.;

d. An international bank agency licensed pursuant to the laws of any state;

e. A federal agency licensed pursuant to ss. 4 and 5 of the International Banking Act of 1978;

- f. A savings association organized and existing under the laws of any state;
 - g. A federal association organized and existing pursuant to the provisions of the Home Owners' Loan Act of 1933, 12 U.S.C. ss. 1461 et seq.; or
 - h. A Florida export finance corporation organized and existing pursuant to the provisions of part V of chapter 288.
2. "International banking transaction" means:

- a. The financing of the exportation from, or the importation into, the United States or between jurisdictions abroad of tangible personal property or services;
- b. The financing of the production, preparation, storage, or transportation of tangible personal property or services which are identifiable as being directly and solely for export from, or import into, the United States or between jurisdictions abroad;
- c. The financing of contracts, projects, or activities to be performed substantially abroad, except those transactions secured by a mortgage, deed of trust, or other lien upon real property located in the state;
- d. The receipt of deposits or borrowings or the extensions of credit by an international banking facility, except the loan or deposit of funds secured by mortgage, deed of trust, or other lien upon real property located in the state; or
- e. Entering into foreign exchange trading or hedging transactions in connection with the activities described in sub-subparagraph d.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 4, after the semicolon (;) insert: amending s. 201.23, F.S.; defining the terms "banking organization" and "international banking transaction," relating to exemption from certain excise taxes;

Senator Saunders moved the following amendment which was adopted:

Amendment 3 (512070)(with title amendment)—On page 45, between lines 20 and 21, insert:

Section 29. Retroactive to January 1, 2005, section 196.1999, Florida Statutes, is created to read:

196.1999 Space laboratories and carriers; exemption.—Notwithstanding other provisions of this chapter, a module, pallet, rack, locker, and any necessary associated hardware and subsystem owned by any person and intended to be used to transport or store cargo used for a space laboratory for the primary purpose of conducting scientific research in space is deemed to carry out a scientific purpose and is exempt from ad valorem taxation.

Section 30. Section 196.1994, Florida Statutes, is repealed.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 4, after the semicolon (;) insert: creating s. 196.1999, F.S.; providing retroactivity; providing an exemption from ad valorem taxes for certain space laboratories; repealing s. 196.1994, F.S., which expired effective July 1, 2004, and which provided an exemption from ad valorem taxes for certain space laboratories;

Pursuant to Rule 4.19, **CS for SB 2032** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Smith—

CS for CS for CS for SB 858—A bill to be entitled An act relating to agriculture; amending s. 193.451, F.S.; clarifying the value for purpose of assessment for ad valorem taxes of certain property leased by the Department of Agriculture and Consumer Services; providing intent for

retroactive application; amending ss. 372.921 and 372.922, F.S.; conforming provisions relating to regulatory authority over the possession, control, care, and maintenance of bison; creating s. 450.175, F.S.; providing a part title; repealing s. 450.211, F.S., relating to the advisory committee for the Legislative Commission on Migrant Labor; amending s. 487.2031, F.S.; redefining the term "material safety data sheet" for purposes of the Florida Agricultural Worker Safety Act; creating s. 487.2042, F.S.; providing for investigation of complaints; providing criteria for the commencement of an investigation; providing for exemption from civil liability under certain circumstances; providing penalties for making a false complaint; amending s. 502.014, F.S.; deleting a duty of the department relating to issuance of a temporary marketing permit for milk and milk products and a fee therefor; amending s. 502.091, F.S.; deleting a reference to a milk type no longer produced; amending s. 503.011, F.S.; updating a reference in the definition of the term "frozen desserts"; amending s. 531.39, F.S.; deleting an outdated reference relating to state standards for weights and measures; amending s. 531.47, F.S.; revising provisions relating to packages on which information is required; amending s. 531.49, F.S.; revising provisions relating to advertising packaged commodities; amending s. 570.07, F.S.; clarifying the power of the Department of Agriculture and Consumer Services; providing an additional power of the Department of Agriculture and Consumer Services; creating s. 570.076, F.S.; authorizing the department to adopt rules establishing the Environmental Stewardship Certification Program; providing program standards; providing requirements for receipt of an agricultural certification; authorizing the Soil and Water Conservation Council to develop and recommend additional criteria; authorizing the department and the Institute of Food and Agricultural Sciences at the University of Florida to develop, deliver, and certify completion of a curriculum; amending s. 570.9135, F.S.; correcting a cross-reference; amending s. 570.952, F.S.; amending the membership of the Florida Agriculture Center and Horse Park Authority; providing criteria for expiration of terms; deleting a requirement to submit information to the Legislature; amending s. 581.011, F.S.; defining the term "invasive plant"; amending s. 581.083, F.S.; prohibiting the cultivation of nonnative plants for purposes of fuel production or purposes other than agriculture in plantings greater than a specified size, except under a special permit issued by the department; providing an exemption; requiring application for a special permit and a fee therefor; requiring an applicant to show proof of security through a bond or certificate of deposit; defining the term "certificate of deposit"; requiring removal and destruction of plants under certain circumstances; specifying circumstances under which the department may issue a final order for plant removal and destruction; requiring reimbursement of costs and expenses for plant removal and destruction by the department; providing requirements for maintenance of a bond or certificate of deposit by a permit holder; providing requirements relating to assignment and cancellation of a bond or certificate of deposit; authorizing a requirement for an annual bond or certificate of deposit and an increase or decrease in the amount of security required; authorizing the department to verify statements and accounts with respect to cultivated acreage; providing for suspension or revocation of a special permit under certain circumstances; amending s. 585.002, F.S.; providing for department regulatory authority over the possession, control, care, and maintenance of bison; providing an exception; amending s. 590.125, F.S.; clarifying liability with respect to prescribed burning; providing severability; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for CS for CS for SB 858** to **HB 1717**.

Pending further consideration of **CS for CS for CS for SB 858** as amended, on motion by Senator Smith, by two-thirds vote **HB 1717** was withdrawn from the Committees on Agriculture; Environmental Preservation; and Judiciary.

On motion by Senator Smith—

HB 1717—A bill to be entitled An act relating to agriculture; amending s. 193.451, F.S.; clarifying the value for purpose of assessment for ad valorem taxes of certain property leased by the Department of Agriculture and Consumer Services; providing intent for retroactive application; amending ss. 372.921 and 372.922, F.S.; conforming provisions relating to regulatory authority over the possession, control, care, and maintenance of bison; creating s. 450.175, F.S.; providing a part title; repealing s. 450.211, F.S., relating to the advisory committee for the Legislative Commission on Migrant Labor; amending s. 487.2031, F.S.;

revising definition of the term “material safety data sheet” for purposes of the Florida Agricultural Worker Safety Act; creating s. 487.2042, F.S.; providing for investigation of complaints; providing criteria for the commencement of an investigation; providing for exemption from civil liability under certain circumstances; providing penalties for making a false complaint; amending s. 502.014, F.S.; deleting a duty of the department relating to issuance of a temporary marketing permit for milk and milk products and a fee therefor; amending s. 502.091, F.S.; deleting reference to a milk type no longer produced; amending s. 503.011, F.S.; updating a reference in the definition of “frozen desserts”; amending s. 531.39, F.S.; deleting an outdated reference relating to state standards for weights and measures; amending s. 531.47, F.S.; revising provisions relating to packages on which information is required; amending s. 531.49, F.S.; revising provisions relating to advertising packaged commodities; amending s. 570.07, F.S.; clarifying the power of the department relating to standards and fines; providing an additional power of the department; creating s. 570.076, F.S.; authorizing the department to adopt rules establishing the Environmental Stewardship Certification Program; providing program standards; providing requirements for receipt of an agricultural certification; authorizing the Soil and Water Conservation Council to develop and recommend additional criteria; authorizing the department and the Institute of Food and Agricultural Sciences at the University of Florida to develop, deliver, and certify completion of a curriculum; authorizing agreements with third-party providers to administer or implement the program; amending s. 570.9135, F.S.; correcting a reference; amending s. 570.952, F.S.; revising the membership of the Florida Agriculture Center and Horse Park Authority; providing criteria for expiration of terms; deleting requirement of submission of information to the Legislature; amending s. 581.011, F.S.; defining the term “invasive plant”; amending s. 581.083, F.S.; prohibiting the cultivation of nonnative plants for purposes of fuel production or purposes other than agriculture in plantings greater than a specified size, except under a special permit issued by the department; providing an exemption; requiring application for a special permit and a fee therefor; requiring an applicant to show proof of security through a bond or certificate of deposit; defining the term “certificate of deposit”; requiring removal and destruction of plants under certain circumstances; specifying circumstances under which the department may issue a final order for plant removal and destruction; requiring reimbursement of costs and expenses for plant removal and destruction by the department; providing requirements for maintenance of a bond or certificate of deposit by a permitholder; providing requirements relating to assignment and cancellation of a bond or certificate of deposit; authorizing requirement for an annual bond or certificate of deposit and an increase or decrease in the amount of security required; authorizing the department to verify statements and accounts with respect to cultivated acreage; providing for suspension or revocation of a special permit under certain circumstances; amending s. 585.002, F.S.; providing for department regulatory authority over the possession, control, care, and maintenance of bison; providing an exception; amending s. 590.125, F.S.; clarifying liability with respect to prescribed burning; providing severability; providing an effective date.

—a companion measure, was substituted for **CS for CS for CS for SB 858** as amended and read the second time by title.

MOTION

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

Senator Argenziano moved the following amendment which was adopted:

Amendment 1 (093832)(with title amendment)—Lines 338-378, delete those lines and insert:

Section 14. Subsection (16) 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:

- (16) To enforce the state laws and rules relating to:
 - (a) Fruit and vegetable inspection and grading;

- (b) Pesticide spray, residue inspection, and removal;
- (c) Registration, labeling, inspection, and analysis of commercial stock feeds and commercial fertilizers;
- (d) Classification, inspection, and sale of poultry and eggs;
- (e) Registration, inspection, and analysis of gasolines and oils;
- (f) Registration, labeling, inspection, and analysis of pesticides;
- (g) Registration, labeling, inspection, germination testing, and sale of seeds, both common and certified;
- (h) Weights, measures, and standards;
- (i) Foods, as set forth in the Florida Food Safety Act;
- (j) Inspection and certification of honey;
- (k) Sale of liquid fuels;
- (l) Licensing of dealers in agricultural products;
- (m) Administration and enforcement of all regulatory legislation applying to milk and milk products, ice cream, and frozen desserts;
- (n) Recordation and inspection of marks and brands of livestock; and
- (o) All other regulatory laws relating to agriculture.

In order to ensure uniform health and safety standards, the adoption of standards and fines in the subject areas of paragraphs (a)-(n) is expressly preempted to the state and the Department of Agriculture and Consumer Services. Any local government enforcing the subject areas of paragraphs (a)-(n) must use the standards and fines set forth in the pertinent statutes or any rules adopted by the department pursuant to those statutes.

And the title is amended as follows:

Lines 32 and 33, delete those lines and insert: relating to standards and fines; creating s. 570.076, F.S.;

Pursuant to Rule 4.19, **HB 1717** as amended was placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for SB 1912** and **CS for SB 2070** was deferred.

On motion by Senator Constantine, by two-thirds vote **HB 1189** was withdrawn from the Committees on Community Affairs; Education Appropriations; and Ways and Means.

On motion by Senator Constantine—

HB 1189—A bill to be entitled An act relating to the education of children of deceased or disabled veterans; amending s. 295.01, F.S.; extending the opportunity to receive postsecondary educational benefits at state expense to the dependent children of certain dead or disabled veterans who were Florida residents when the death or disability occurred; decreasing the minimum required length of the parent’s residency; amending s. 295.0185, F.S.; providing educational opportunity at state expense for dependent children of military personnel who die or suffer a specified disability in Operation Iraqi Freedom; amending s. 295.02, F.S.; authorizing the use of funds for educational opportunities for the children of certain deceased and disabled veterans; providing an effective date.

—a companion measure, was substituted for **CS for SB 1458** and read the second time by title.

Pursuant to Rule 4.19, **HB 1189** was placed on the calendar of Bills on Third Reading.

On motion by Senator Wise—

CS for CS for CS for SB 1062—A bill to be entitled An act relating to seaport security; amending s. 311.12, F.S.; requiring that the Department of Law Enforcement establish a waiver process for allowing an individual, who is otherwise unqualified, to be allowed unescorted access to a seaport or restricted access area; requiring that the administrative staff of the Parole Commission review the facts of the waiver application and transmit the findings to the Department of Law Enforcement; requiring the department to make a final disposition of the application and notify the applicant and the port authority that denied employment to the applicant; exempting the review from ch. 120, F.S.; creating s. 311.121, F.S.; authorizing the seaport authority or governing board of certain seaports to require that seaport security officers receive additional training and certification; providing legislative intent relating to mitigation of operational security costs at seaports; requiring the department to apply such intent; providing eligibility requirements for such certification; creating the Seaport Security Officer Qualifications, Training, and Standards Steering Committee to develop the curriculum for the training program; providing for the membership of the steering committee; requiring the Department of Education to implement the training curriculum; authorizing the substitution of training equivalencies; requiring an examination; providing requirements for certification renewal; providing requirements for schools that offer training for seaport security officers; providing for issuance of a license indicating that the licensee is certified as a seaport security officer; creating s. 311.122, F.S.; authorizing a seaport security officer to take into custody any person whom the officer has cause to believe is trespassing in a restricted access area; providing that such officer is not criminally or civilly liable for taking such action; defining the term “restricted access area”; providing for designation of part or all of a seaport as a restricted access area under certain emergency conditions; creating s. 311.123, F.S.; requiring that the Florida Seaport Transportation and Economic Development Council, in conjunction with the Department of Law Enforcement and the Governor’s Office of Drug Control, create a maritime domain awareness training program; providing purposes of the program; providing requirements for the curriculum; providing an effective date.

—was read the second time by title.

Senator Wise moved the following amendments which were adopted:

Amendment 1 (114168)—On page 5, lines 6 and 7, delete those lines and insert: *Committee. The curriculum must require no less than 8 hours of initial certification training and must conform to or exceed the model courses for facility personnel with specific security duties which*

Amendment 2 (294410)(with title amendment)—On page 6, between lines 28 and 29, insert:

(7) *The steering committee shall recommend a continuing education curriculum to be implemented by the Department of Education. The curriculum must be offered by any licensed school or seaport that offers certificate training for seaport security officers and must require no less than 4 hours of additional training per annual licensing period. A seaport security officer certificate is void if the certificateholder licensee fails to complete the annual continuing education requirement prior to expiration of his or her Class D license.*

(Renumber subsequent subsections.)

And the title is amended as follows:

On page 2, line 3, after the semicolon (;) insert: providing continuing education requirements for certification;

Pursuant to Rule 4.19, **CS for CS for CS for SB 1062** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Campbell—

CS for SB 1624—A bill to be entitled An act relating to firefighters’ pensions; amending s. 175.041, F.S.; providing that any municipality that provides fire protection services to another municipality under an interlocal agreement is eligible to receive premium taxes; authorizing the municipality that receives the fire protection services to enact an

ordinance levying the tax; authorizing the Division of Retirement within the Department of Management Services to distribute the premium taxes; amending s. 175.101, F.S.; authorizing any municipality that has entered into an interlocal agreement for fire protection services with another municipality to impose an excise tax on entities that are engaged in the business of property insurance; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 1624** to **HB 1159**.

Pending further consideration of **CS for SB 1624** as amended, on motion by Senator Campbell, by two-thirds vote **HB 1159** was withdrawn from the Committees on Community Affairs; Banking and Insurance; and Governmental Oversight and Productivity.

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

HB 1159—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.055, F.S.; during a specified period of time, permitting local government employees who are members of the Senior Management Service Class, who have withdrawn from the Florida Retirement System, to elect membership in the defined benefit program or the public employee optional retirement program of the system; prescribing requirements in making such election; providing for payment of the costs of such membership; amending s. 175.041, F.S.; providing that any municipality that provides fire protection services to another municipality under an interlocal agreement is eligible to receive premium taxes; authorizing the municipality that receives the fire protection services to enact an ordinance levying the tax; authorizing the Division of Retirement within the Department of Management Services to distribute the premium taxes; amending s. 175.101, F.S.; authorizing any municipality that has entered into an interlocal agreement for fire protection services with another municipality to impose an excise tax on entities that are engaged in the business of property insurance; providing an effective date.

—a companion measure, was substituted for **CS for SB 1624** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 1159** was placed on the calendar of Bills on Third Reading.

CS for CS for SB’s 1944 and 2008—A bill to be entitled An act relating to ethics for public officers and employees; amending s. 104.31, F.S.; prohibiting employees of the state and its political subdivisions from participating in a political campaign during certain time periods; amending s. 112.313, F.S.; prohibiting certain disclosures by a former public officer, agency employee, or local government attorney; redefining the term “employee” to include certain other-personal-services employees for certain postemployment activities; providing an exemption from provisions prohibiting conflicts in employment to a person who, after serving on an advisory board, files a statement with the Commission on Ethics relating to a bid or submission; amending s. 112.3144, F.S.; specifying how assets valued in excess of \$1,000 are to be reported by a reporting individual; amending s. 112.3145, F.S.; requiring that a delinquency notice be sent to certain officeholders by certified mail, return receipt requested; revising certain filing deadlines; amending s. 112.3147, F.S.; deleting certain provisions relating to reporting the value of assets; amending s. 112.3148, F.S.; providing requirements for persons who have left office or employment as to filing a report relating to gifts; amending s. 112.3149, F.S.; requiring that a report of honoraria by a person who left office or employment be filed by a specified date; amending s. 112.317, F.S.; authorizing the commission to recommend a restitution penalty be paid to the agency or the General Revenue Fund; authorizing the Attorney General to recover costs for filing suit to collect penalties and fines; deleting provisions imposing a penalty for the disclosure of information concerning a complaint or an investigation; amending 112.3185, F.S.; providing additional standards for state agency employees relating to procurement of goods and services by a state agency; authorizing an employee whose position was eliminated to engage in certain contractual activities; prohibiting former employees from certain specified activities; amending s. 112.3215, F.S.; requiring the commission to adopt a rule detailing the grounds for waiving a fine and the procedures when a lobbyist fails to timely file his or her report; requiring automatic suspension of a lobbyist’s registration if the fine is not timely

paid; amending s. 112.322, F.S.; authorizing travel and per diem expenses for certain witnesses; amending s. 112.324, F.S.; providing procedures for the commission to handle complaints of violations; amending s. 914.21, F.S.; redefining the terms "official investigation" and "official proceeding," for purposes of provisions relating to tampering with witnesses, to include an investigation by the Commission on Ethics; providing an effective date.

—was read the second time by title.

Senator Villalobos moved the following amendment which was adopted:

Amendment 1 (485352)(with title amendment)—On page 20, between lines 27 and 28, insert:

Section 10. Subsection (1) of section 112.321, Florida Statutes, is amended to read:

112.321 Membership, terms; travel expenses; staff.—

(1) The commission shall be composed of nine members. Five of these members shall be appointed by the Governor, no more than three of whom shall be from the same political party, subject to confirmation by the Senate. One member appointed by the Governor shall be a former city or county official and may be a former member of a local planning or zoning board which has only advisory duties. Two members shall be appointed by the Speaker of the House of Representatives, and two members shall be appointed by the President of the Senate. Neither the Speaker of the House of Representatives nor the President of the Senate shall appoint more than one member from the same political party. Of the nine members of the Commission, no more than five members shall be from the same political party at any one time. No member may hold any public employment. *An individual who qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215 or pursuant to any local government charter or ordinance may not serve as a member of the commission, except that this prohibition does not apply to an individual who is a member of the commission on July 1, 2005, until the expiration of his or her current term. A member of the commission may not lobby any state or local governmental entity as provided in s. 11.045 or s. 112.3215 or as provided by any local government charter or ordinance, except that this prohibition does not apply to an individual who is a member of the commission on July 1, 2005, until the expiration of his or her current term.* All members shall serve 2-year terms. No member shall serve more than two full terms in succession. Any member of the commission may be removed for cause by majority vote of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, delete line 16 and insert: certain specified activities; amending s. 112.321, F.S.; prohibiting an individual who qualifies as a lobbyist from serving on the commission; prohibiting a member of the commission from lobbying any state or local governmental entity; providing exceptions for individuals who are members of the commission on the effective date of the act until the expiration of their current terms; amending s.

Senator Posey moved the following amendment which was adopted:

Amendment 2 (130246)(with title amendment)—On page 22, line 24, after "commission." insert: *The commission shall provide a written suspension notice to each lobbyist whose registration has been automatically suspended.*

And the title is amended as follows:

On page 2, line 22, after the semicolon (;) insert: requiring the commission to provide written notice to any lobbyist whose registration is automatically suspended;

MOTION

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

Senator Posey moved the following amendment which was adopted:

Amendment 3 (882058)(with title amendment)—On page 23, line 30 through page 31, line 9, delete those lines.

And the title is amended as follows:

On page 2, lines 25-27, delete those lines and insert: amending s. 914.21, F.S.;

On motion by Senator Posey, further consideration of **CS for CS for SB's 1944 and 2008** as amended was deferred.

On motion by Senator Saunders—

CS for SB 1372—A bill to be entitled An act relating to economic development; amending s. 288.125, F.S.; changing the term "television series" to "television programming" for purposes of the definition of the term "entertainment industry" in provisions establishing the Office of Film and Entertainment within the Office of Tourism, Trade, and Economic Development; amending s. 288.1254, F.S.; revising a program under which certain persons producing, or providing services for the production of, filmed entertainment are eligible for state financial incentives for activities in or relocated to this state; revising definitions; revising application procedures and requirements; revising application approval provisions; revising reimbursement eligibility criteria and requirements; revising limits on reimbursement; revising the due date for the annual report to be submitted to the Governor and the Legislature; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 1372** to **HB 1129**.

Pending further consideration of **CS for SB 1372** as amended, on motion by Senator Saunders, by two-thirds vote **HB 1129** was withdrawn from the Committees on Commerce and Consumer Services; Government Efficiency Appropriations; and Transportation and Economic Development Appropriations.

HB 1129—A bill to be entitled An act relating to economic development; amending s. 288.125, F.S.; changing the term "television series" to "television programming" for purposes of the definition of the term "entertainment industry" in provisions establishing the Office of Film and Entertainment within the Office of Tourism, Trade, and Economic Development; amending s. 288.1254, F.S.; revising a program under which certain persons producing, or providing services for the production of, filmed entertainment are eligible for state financial incentives for activities in or relocated to this state; revising definitions; revising application procedures and requirements; revising application approval provisions; revising reimbursement eligibility criteria and requirements; revising limits on reimbursement; revising the due date for the annual report to be submitted to the Governor and the Legislature; providing an effective date.

—a companion measure, was substituted for **CS for SB 1372** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 1129** was placed on the calendar of Bills on Third Reading.

On motion by Senator Dockery, by two-thirds vote **HB 1031** was withdrawn from the Committees on Environmental Preservation; and Community Affairs.

On motion by Senator Dockery—

HB 1031—A bill to be entitled An act relating to the reuse and recycling of campaign signs; requiring the Department of Environmental Protection to design a pilot project to encourage the reuse or recycling of campaign signs; requiring the department to submit details of the program and a budget request for use of funds from the Solid Waste Management Trust Fund to the Governor and Legislature; providing an effective date.

—a companion measure, was substituted for **CS for SB 1542** and read the second time by title.

Pursuant to Rule 4.19, **HB 1031** was placed on the calendar of Bills on Third Reading.

On motion by Senator Atwater, by two-thirds vote **HB 729** was withdrawn from the Committees on Banking and Insurance; Governmental Oversight and Productivity; and Rules and Calendar.

On motion by Senator Atwater—

HB 729—A bill to be entitled An act relating to public records and meetings exemptions; creating s. 440.3851, F.S.; exempting from public records and public meetings requirements certain records of the Florida Self-Insurers Guaranty Association, Incorporated, and certain meetings of the board of directors of the association or any subcommittee of the board; providing for release of such records under certain circumstances; providing requirements; providing for future legislative review and repeal; providing findings of public necessity; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1442** and read the second time by title.

Pursuant to Rule 4.19, **HB 729** was placed on the calendar of Bills on Third Reading.

CS for CS for SB 2086—A bill to be entitled An act relating to elections; amending s. 97.012, F.S.; exempting certain voter-education activities from requirements for competitive solicitation; authorizing the Secretary of State to investigate voter fraud; authorizing the Department of State to adopt rules; amending s. 97.021, F.S.; defining the term “marksense ballots”; defining the terms “early voting area,” “early voting site,” and “third-party voter registration organization”; creating s. 97.029, F.S.; providing for attorney’s fees and costs in any action for injunctive relief or an action challenging an election law or voter-registration law; requiring an itemized affidavit; providing for review of an award of attorney’s fees and costs; providing a limitation on the amount awarded; amending s. 97.051, F.S.; revising the oath required upon registering to vote; amending s. 97.052, F.S.; revising the contents of the uniform statewide voter registration application; amending s. 97.053, F.S.; revising provisions governing the acceptance of voter registration applications by the supervisor of elections; requiring that an applicant complete a registration application before the date of book closing in order to be eligible to vote in that election; revising the information required on the registration application; amending s. 97.055, F.S.; limiting the updates that may be made to registration information following book closing; creating s. 97.0575, F.S.; providing requirements for third-party voter registration organizations that collect voter-registration applications; providing fines for failure to deliver applications as required; authorizing the Division of Elections to adopt rules to administer provisions governing third-party voter registration organizations; amending s. 97.071, F.S.; specifying the information to be included on the registration identification card; amending s. 98.045, F.S.; deleting a cross-reference; amending s. 98.077, F.S.; revising the procedures for updating a voter signature used to verify an absentee ballot or provisional ballot; amending s. 99.061, F.S.; providing for qualifying for nomination or election by the petition process; requiring the filing of statements of financial interest; requiring that a qualifying officer accept certain qualifying papers filed before the qualifying period; amending s. 99.063, F.S.; providing filing requirements for public officers; amending s. 99.092, F.S., relating to qualifying fees; clarifying provisions governing qualifying for nomination or election by the petition process to conform to changes made by the act; amending s. 99.095, F.S.; revising the requirements for qualifying as a candidate by a petition process in lieu of paying a qualifying fee and party assessment; providing requirements for submitting petitions and certifications; requiring that the division or supervisor of elections, as applicable, determine whether the required number of signatures has been obtained; amending s. 99.0955, F.S.; providing procedures for a candidate having no party affiliation to qualify by the petition process; amending s. 99.096, F.S.; revising the procedures for a minor political party to submit nominated candidates to be on the general election ballot; providing for candidates to qualify by the petition process; amending s. 99.09651, F.S., relating to signature requirements for ballot position; conforming provisions to changes made by the act; amending s. 100.011, F.S.; requiring that an elector in line at the time the polls close be allowed to vote; amending s. 100.101, F.S.; revising the circumstances under which a special election or primary is

held; amending s. 100.111, F.S.; revising requirements for filling a vacancy in a nomination; requiring that ballots cast for a former nominee be counted for the person designated to replace the nominee under certain circumstances; amending s. 100.141, F.S., relating to the notice of a special election; conforming provisions to changes made by the act; amending s. 101.031, F.S.; revising the Voter’s Bill of Rights to authorize a provisional ballot if a person’s identity is in question; amending s. 101.043, F.S.; revising the procedures for a voter to provide identification when voting; amending s. 101.048, F.S.; providing for certain additional voters to cast provisional ballots; providing requirements for presenting evidence in support of a person’s right to vote; requiring that the county canvassing board count such a ballot unless it determines by a preponderance of the evidence that the person was not entitled to vote; requiring that a person casting a provisional ballot be informed of certain rights; amending s. 101.049, F.S.; providing requirements for ballots for persons with disabilities; amending s. 101.051, F.S.; prohibiting certain solicitations to provide assistance to an elector; providing a penalty; authorizing an elector to request that a person other than an election official provide him or her with assistance in voting; providing for the form of the oath to be signed; amending s. 101.111, F.S.; revising the requirements for challenging an elector’s right to vote; providing a penalty for filing a frivolous challenge; amending s. 101.131, F.S.; revising requirements for poll watchers; authorizing certain political committees to have poll watchers; prohibiting a poll watcher from interacting with a voter; providing for poll watchers at early voting areas; amending s. 101.151, F.S.; providing requirements for marksense ballots; amending s. 101.171, F.S.; requiring that a copy of a proposed constitutional amendment be available at voting locations; amending s. 101.294, F.S.; prohibiting a vendor of voting equipment from providing systems, components, or system upgrades to a local governing body or supervisor of elections which have not been certified by the Division of Elections; requiring that the vendor provide sworn certification of such equipment; amending s. 101.295, F.S.; providing a penalty for providing voting equipment in violation of ch. 101, F.S.; amending s. 101.49, F.S.; revising the procedures for verifying an elector’s signature; amending s. 101.51, F.S.; requiring that an elector occupy a voting booth alone; amending s. 101.5606, F.S., relating to requirements for approval of voting systems, to conform; amending s. 101.5608, F.S., relating to voting by electronic or electromechanical methods, to conform; amending s. 101.5612, F.S.; providing requirements for testing voting equipment; amending s. 101.5614, F.S.; correcting a cross-reference; amending s. 101.572, F.S.; requiring that the supervisor of elections notify the candidates if ballots are examined before the end of the contest; amending s. 101.58, F.S.; authorizing employees of the department to have access to the premises, records, equipment, and staff of the supervisors of elections; amending s. 101.595, F.S.; requiring that certain overvotes and undervotes be reported to the department; amending s. 101.6103, F.S.; authorizing the canvassing board to begin canvassing before the election; prohibiting the release of results before election day; providing a penalty for any early release of results; requiring that a mail ballot that otherwise satisfies the requirements of law for mail ballots be counted even if the elector dies after mailing the ballot but before election day if certain conditions are met; amending s. 101.62, F.S.; revising the requirements for mailing absentee ballots to voters; amending s. 101.64, F.S.; providing for an oath to be provided to persons voting absentee under the Uniformed and Overseas Citizens Absentee Voting Act; amending s. 101.657, F.S.; revising requirements relating to early voting locations; revising the deadline to end early voting and the times for opening and closing the early voting sites each day; providing for uniformity of county early voting sites; requiring any person in line at the closing of an early voting site to be allowed to vote; providing for early voting in municipal and special district elections; requiring supervisors to provide certain information in electronic format to the Division of Elections; requiring that an early voting ballot that otherwise satisfies the requirements of law for early voting ballots be counted even if the elector dies on or before election day; amending s. 101.663, F.S.; providing for certain persons to vote absentee after moving to another state; amending s. 101.68, F.S.; prohibiting changing a voter’s certificate after the absentee ballot is received by the supervisor; providing that electors who die on or before election day and have cast an absentee ballot shall remain on the voter registration books until the election is certified; providing that the ballot of an elector who casts an absentee ballot shall be counted even if the elector dies on or before election day if certain conditions are met; amending s. 101.69, F.S.; prohibiting a voter from voting another ballot after casting an absentee ballot; providing for a provisional ballot under certain circumstances; amending s. 101.6923, F.S.; providing for the form of the printed instructions on an absentee ballot; amending s. 101.694, F.S.; providing requirements for absentee envelopes printed for voters voting under the

Uniformed and Overseas Citizens Absentee Voting Act; amending s. 101.697, F.S.; requiring the Department of State to determine whether secure electronic ballots may be provided for overseas voters; requiring that the department adopt rules for accepting overseas ballots; amending s. 102.012, F.S.; requiring the supervisor of elections to appoint an election board before any election; providing duties of the board; amending s. 102.014, F.S.; requiring that the Division of Elections develop a uniform training curriculum for poll workers; amending s. 102.031, F.S.; providing requirements for maintaining order at early voting areas; requiring the designation of a no-solicitation zone; prohibiting photography in a polling room or early voting area; amending s. 102.071, F.S.; revising requirements for tabulating votes; amending s. 102.111, F.S.; providing for corrections to be made to the official election returns; amending s. 102.112, F.S.; requiring that a return contain a certification by the canvassing board; authorizing the Department of State to correct typographical errors; amending s. 102.141, F.S.; revising requirements for the canvassing boards in submitting returns to the department; providing requirements for the report filed by the canvassing board; requiring the department to adopt rules for filing results and statistical information; amending s. 102.166, F.S.; revising the circumstances under which a manual recount may be ordered; amending s. 102.168, F.S.; requiring that complaints be filed with the board responsible for certifying the election results; specifying the parties to an action who may contest an election or nomination; amending s. 103.021, F.S.; providing for nomination of presidential electors by the state executive committee of each political party; defining the term "national party" for purposes of nominating a candidate for President and Vice President of the United States; amending ss. 103.051 and 103.061, F.S.; specifying duties of the presidential electors; amending s. 103.121, F.S.; revising powers and duties of executive committees to conform to changes made by the act; amending s. 105.031, F.S.; providing for public officers to file a statement of financial interests at the time of qualifying; requiring that a filing officer accept certain qualifying papers filed before the qualifying period; amending s. 105.035, F.S.; revising procedures for qualifying for certain judicial offices and the office of school board member; prohibiting a candidate from obtaining signatures until appointing a campaign treasurer and designating a campaign depository; revising the requirements for the supervisor of elections with respect to certifying signatures; creating s. 106.022, F.S.; requiring that a political committee, committee of continuous existence, or electioneering communications entity maintain a registered office and registered agent; providing requirements for the statement of appointment; amending s. 106.24, F.S.; clarifying the duties of the Secretary of State; amending s. 106.141, F.S., relating to the disposition of surplus funds; conforming provisions to changes made by the act; transferring and renumbering s. 98.122, F.S., relating to the use of closed captioning and descriptive narrative in television broadcasts; amending s. 106.22, F.S.; eliminating certain duties of the Division of Elections with respect to reports to the Legislature and preliminary investigations; amending s. 16.56, F.S.; authorizing the Office of Statewide Prosecution to investigate and prosecute crimes involving voter registration, voting, or certain petition activities; amending s. 119.07, F.S.; clarifying requirements of the supervisor of elections with respect to notifying candidates of the inspection of ballots; amending s. 145.09, F.S.; requiring that the Department of State adopt rules establishing certification requirements for supervisors of elections; creating s. 104.0615, F.S.; providing a short title; prohibiting a person from using or threatening to use force, violence, or intimidation to induce or compel an individual to vote or refrain from voting, to refrain from registering to vote, or to refrain from acting as an election official or poll watcher; prohibiting a person from knowingly using false information to challenge an individual's right to vote, to induce an individual to refrain from registering to vote, or to induce or attempt to induce an individual to refrain from acting as an election official or poll watcher; prohibiting a person from knowingly destroying, mutilating, or defacing a voter registration form or election ballot or obstructing or delaying the delivery of a voter registration form or election ballot; providing criminal penalties; repealing ss. 98.095, 98.0979, 98.181, 98.481, 101.253, 101.635, 102.061, 106.085, and 106.144, F.S., relating to inspections of county registers and the voter database, indexes and records, challenges to elections, the printing and distribution of ballots, duties of the election board, expenditures, and endorsements or opposition by certain groups; providing for severability; providing effective dates.

—was read the second time by title.

Senator Miller moved the following amendment which was adopted:

Amendment 1 (860156)(with title amendment)—On page 12, lines 10-14, delete those lines.

And the title is amended as follows:

On page 1, lines 3-5, delete those lines and insert: 97.012, F.S.; authorizing the Secretary of

Senator Aronberg moved the following amendment:

Amendment 2 (252384)(with title amendment)—On page 15, line 13 through page 16, line 22, delete those lines and insert:

97.029 Attorney's fees and costs.—If it appears to the presiding officer that the action brought by the plaintiff is frivolous or brought for purposes of harassment, the court shall assess costs and attorney's fees in accordance with chapter 57.

And the title is amended as follows:

On page 1, lines 13-19, delete those lines and insert: attorney's fees and costs in an action that appears to the presiding officer to be frivolous or brought to harass; amending s. 97.051, F.S.; revising the

MOTION

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

Senator Posey moved the following substitute amendment which was adopted:

Amendment 3 (394962)(with title amendment)—On page 15, line 11 through page 16, line 22, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 1, lines 12-19, delete those lines and insert: amending s. 97.051, F.S.; revising the

Senator Hill moved the following amendment:

Amendment 4 (463178)—On page 86, lines 13-17, delete those lines and insert: *at each early voting site.*

On motion by Senator Posey, further consideration of **CS for CS for SB 2086** as amended with pending **Amendment 4 (463178)** was deferred.

Consideration of **CS for SB 2510** was deferred.

On motion by Senator Saunders, by two-thirds vote **HB 185** was withdrawn from the Committees on Health Care; and Governmental Oversight and Productivity.

On motion by Senator Saunders—

HB 185—A bill to be entitled An act relating to public records and public meetings exemptions; creating s. 383.412, F.S.; providing an exemption from public records requirements for any information that reveals the identity of surviving siblings, family members, or others living in the home of a deceased child who is the subject of review by, and which information is held by, the State Child Abuse Death Review Committee or local committee, or a panel or committee assembled by the state committee or a local committee; providing that confidential or exempt information obtained by such committees or panels will retain its confidential or exempt status; providing an exemption from public meetings requirements for portions of meetings of such committees or panels wherein confidential and exempt information is discussed; authorizing the State Child Abuse Death Review Committee and local child abuse death review committees to share relevant confidential and exempt information regarding case reviews involving child death; providing a penalty for the unauthorized disclosure of confidential information concerning child fatalities; providing for future review and repeal; providing a statement of public necessity; providing an effective date.

—a companion measure, was substituted for **CS for SB 676** and read the second time by title.

Pursuant to Rule 4.19, **HB 185** was placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 1704** was deferred.

SENATOR CLARY PRESIDING

On motion by Senator Peaden, by two-thirds vote **HB 1347** was withdrawn from the Committees on Health Care; and Criminal Justice.

On motion by Senator Peaden—

HB 1347—A bill to be entitled An act relating to controlled substances; amending s. 893.033, F.S.; revising the definition of “listed precursor chemical” to include benzaldehyde, hydriodic acid, and nitroethane, and to remove anhydrous ammonia and benzyl chloride; revising the definition of “listed essential chemical” to include anhydrous ammonia, benzyl chloride, hydrochloric gas, and iodine; amending s. 893.13, F.S.; prohibiting a person from manufacturing methamphetamine or phencyclidine or from possessing listed chemicals with the intent to manufacture methamphetamine or phencyclidine; providing criminal penalties; providing for minimum terms of imprisonment in circumstances where a person commits or attempts to commit such crime in a structure or conveyance where a child is present and in circumstances where a child suffers great bodily harm; providing criminal penalties in circumstances where a person fails to store anhydrous ammonia as required; providing criminal penalties in circumstances involving a violation of ch. 893, F.S., which results in serious injury to a state, local, or federal law enforcement officer; increasing the criminal penalties if such violation results in death or great bodily harm to such officer; prohibiting a person from selling, manufacturing, delivering, or attempting to sell, manufacture, or deliver a controlled substance in, on, or within 1,000 feet of an assisted living facility; providing criminal penalties for such offense; specifying minimum terms of imprisonment for such offense; amending s. 893.135, F.S.; including offenses involving pseudoephedrine within the offense of trafficking in amphetamine; providing criminal penalties; providing that it is a capital offense to manufacture or import pseudoephedrine knowing that the probable result will be death; amending s. 893.149, F.S., relating to the prohibition against possessing listed chemicals; providing an exception to such prohibition for a person authorized to clean up or dispose of hazardous waste or toxic substances pursuant to ch. 893, F.S.; providing that damages arising out of the unlawful possession of, storage of, or tampering with a listed chemical is the sole responsibility of the person unlawfully possessing, storing, or tampering with the chemical; providing that the lawful owner, installer, maintainer, designer, manufacturer, possessor, or seller is immune from liability in the absence of negligent misconduct or failure to abide by laws governing possession or storage; creating s. 893.1495, F.S.; limiting retail sales of products containing more than a specified amount of ephedrine or related compounds in a single transaction; providing restrictions on the retail display of products containing ephedrine or related compounds; requiring specified training for employees of retail outlets who engage in the retail sale of such products; providing that local regulations passed after a specified date that are more restrictive than this act are superseded; providing criminal penalties; reenacting s. 893.02(12), F.S., relating to the definition of the term “listed chemical,” for the purpose of incorporating the amendment to s. 893.033, F.S., in a reference thereto; reenacting ss. 435.07(2), 921.187(1), 938.25, and 948.034(1) and (2), F.S., relating to exemptions from disqualification for certain employment, disposition and sentencing alternatives, the assessment of fees for purposes of funding the Operating Trust Fund of the Department of Law Enforcement, and the terms and conditions of probation, respectively, for the purpose of incorporating the amendment to s. 893.13, F.S., in references thereto; reenacting ss. 311.12(3)(c), 414.095(1), 775.087(2)(a) and (3)(a), 782.04(1)(a), (3)(a), and (4)(a), 893.13(8)(d), 907.041(4)(c), 921.0022(3)(g), (h), and (i), 921.0024(1), 921.142(2), 943.0585, and 943.059, F.S., relating to seaport security standards, eligibility for temporary cash assistance, mandatory sentencing in circumstances involving the possession of use of a weapon, specified offenses that may be charged as murder if death results, prohibited acts by prescribing practitioners, circumstances in which the court may order pretrial detention, the offense severity ranking chart of the Criminal Punishment Code, worksheet computations and score-sheets under the Criminal Punishment Code, sentencing in capital drug trafficking cases, limitations on circumstances in which a criminal history record may be expunged, and limitations on circumstances in which

a criminal history record may be sealed, respectively, for the purpose of incorporating the amendment to s. 895.135, F.S., in references thereto; reenacting ss. 397.451(4)(b) and (6), 772.12(2)(a), 893.135(1), and 903.133, F.S., relating to background checks of service provider personnel, the Drug Dealer Liability Act, the prohibition against leasing or renting for the purpose of trafficking in a controlled substance, and the limitation of admission to bail, respectively, for the purpose of incorporating the amendments to ss. 893.13 and 893.135, F.S., in references thereto; providing applicability; providing an effective date.

—a companion measure, was substituted for **CS for SB 2352** and read the second time by title.

Pursuant to Rule 4.19, **HB 1347** was placed on the calendar of Bills on Third Reading.

On motion by Senator Dockery—

CS for CS for SB 2502—A bill to be entitled An act relating to water management districts; creating s. 373.1135, F.S.; authorizing each water management district to establish a small business program to encourage small businesses, including those owned by women and minorities, to participate in district procurement and contract activities; amending s. 373.073, F.S.; allowing a water management district government board member to serve until a replacement has been appointed; amending s. 373.414, F.S.; allowing a petition for a jurisdictional declaratory statement to be submitted to the Department of Environmental Protection or a water management district on or before June 1, 1994; providing an effective date.

—was read the second time by title.

Senator Dockery moved the following amendments which were adopted:

Amendment 1 (721396)—On page 2, line 17, after “appointed” insert: , but not more than 180 days

Amendment 2 (040146)(with title amendment)—On page 4, between lines 21 and 22, insert:

Section 4. Subsection (3) of section 373.0361, Florida Statutes, is amended to read:

373.0361 Regional water supply planning.—

(3) Regional water supply plans initiated or completed by July 1, 1997, shall be revised, if necessary, to include a water supply development component and a water resource development component as described in paragraphs (2)(a) and (b). *For any regional water supply plan that is scheduled to be updated before December 31, 2005, the deadline for such update shall be extended by 1 year.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 16, after the semicolon (;) insert: amending s. 373.0361, F.S.; extending a deadline for water management districts to update certain regional water supply plans;

Pursuant to Rule 4.19, **CS for CS for SB 2502** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for CS for SB 454** and **CS for SB 1780** was deferred.

On motion by Senator Crist—

CS for CS for SB 1978—A bill to be entitled An act relating to juvenile justice; amending s. 985.03, F.S.; redefining terms relating to juvenile justice; redefining the terms “day treatment” and “restrictiveness level”; amending s. 985.207, F.S.; clarifying when a child who escapes from commitment may be taken into custody by a law enforcement officer; amending s. 985.208, F.S.; clarifying when the Department of

Corrections may take a child who is believed to have escaped from a facility of the department into custody; amending s. 985.231, F.S.; incorporating newly defined terms to clarify the terms of a child's commitment; providing for the maximum length of a minimum-risk, nonresidential commitment for a child who commits a second-degree misdemeanor; providing that the department or a provider report quarterly to the court the child's progress with his or her treatment plan; conforming a cross-reference; amending s. 985.2311, F.S.; requiring parents to pay the costs of supervision related to minimum-risk, nonresidential commitment to the department; amending s. 985.316, F.S.; providing for assessment by the department of the need of juveniles in residential commitment for conditional release services; repealing s. 985.403, F.S., relating to the Task Force on Juvenile Sexual Offenders and their Victims; requiring the department to create a task force on juvenile sexual offenders and their victims; providing for membership, powers, duties, and dissolution of the task force; requiring a written report; directing the Department of Juvenile Justice to provide administrative support; prohibiting certain compensation or reimbursement of task force members; requiring the Department of Juvenile Justice to create a task force to study certification for juvenile justice provider staff; providing for membership, powers, duties and dissolution of the task force; requiring a written report; directing the department to provide administrative support; prohibiting certain compensation or reimbursement of task force members; amending s. 985.4135, F.S.; providing that membership of juvenile justice county councils or circuit boards may, rather than must, include certain entities; amending ss. 784.075, 985.231, 985.31, and 985.3141, F.S.; conforming cross-references; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for CS for SB 1978** to **HB 1917**.

Pending further consideration of **CS for CS for SB 1978** as amended, on motion by Senator Crist, by two-thirds vote **HB 1917** was withdrawn from the Committees on Criminal Justice; Children and Families; and Justice Appropriations.

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

HB 1917—A bill to be entitled An act relating to juvenile justice; amending s. 943.0515, F.S.; deleting the term “juvenile prison”; amending s. 985.03, F.S.; revising definitions relating to juvenile justice; creating a definition for the term “day treatment”; creating the minimum-risk nonresidential restrictiveness level; providing that temporary release may be granted under specified conditions to youth committed to the high-risk residential restrictiveness level; providing that high-risk residential facilities may be environmentally secure; removing juvenile prisons from the maximum-risk residential level; amending s. 985.201, F.S.; conforming to definition changes; amending s. 985.207, F.S.; providing that a child may be taken into custody for absconding from a nonresidential commitment facility; providing for a child to be taken into custody for specified court findings; amending s. 985.208, F.S.; providing that a child may be taken into custody for absconding from a nonresidential commitment facility; amending s. 985.213, F.S.; providing that permissible detention findings include specified criteria for taking a child into custody; amending s. 985.215, F.S.; providing for release from detention for a child who has absconded; providing exceptions that permit a child to be placed in detention postadjudication for more than 15 days; providing procedures for exceptions; conforming a cross reference; providing for detention for committed children awaiting placement; providing secure detention for children awaiting minimum-risk placement who violate home or nonsecure detention or electronic monitoring; providing for limited secure detention for children being transported to residential commitment programs; amending s. 985.2155, F.S.; revising the definition of a fiscally constrained county; amending s. 985.228, F.S.; requiring the court to include specified conditions in an order of adjudication of delinquency that are applicable to a youth for the postadjudication and predisposition period; amending s. 985.231, F.S.; revising provisions relating to powers of disposition; permitting a court to specify the program or facility a youth shall be placed in when committed; providing procedures for a court's specific placement; providing for commitment of a child to a specific high-risk residential or maximum-risk residential program or facility; providing the maximum length for a minimum-risk nonresidential commitment for a second degree misdemeanor; providing that the department or a provider report quarterly to the court the child's treatment plan progress; making conforming changes; amending s. 985.2311, F.S.; providing that parents shall pay fees for costs of supervision related to minimum-risk nonresidential commitment; amending

s. 985.313, F.S.; conforming to definitions changes; amending s. 985.316, F.S.; providing for assessment of residentially committed youth for conditional release services; repealing s. 985.403, F.S., relating to the Task Force on Juvenile Sexual Offenders and their Victims; creating a new task force on juvenile sexual offenders and their victims; providing powers and duties; providing membership; requiring a report; providing for administrative support; providing for dissolution of the task force; creating a task force to study the certification of professional staff working for a provider of juvenile justice services; providing membership; requiring the task force to consider the feasibility of implementing and operating a certification system for professional staff; requiring the task force to consider specified issues; directing the task force to recommend a process for testing and validating the effectiveness of the recommended staff development system; requiring the task force to prepare and submit a report of its deliberations and recommendations by a specified date; providing for administrative support; providing for dissolution of the task force; amending s. 985.404, F.S.; requiring the court to issue written orders granting or denying specified department requested transfers for committed youth; permitting the court to conduct a hearing; prohibiting specified department-requested transfers prior to department receipt of a written court order granting the transfer; amending s. 985.4135, F.S.; requiring juvenile justice county councils to develop criteria for law enforcement referrals to juvenile assessment centers; providing for permissible representation on juvenile justice county councils or circuit boards; amending ss. 784.075, 984.05, 985.31, and 985.3141, F.S.; conforming cross references; reenacting ss. 985.201(4)(a), 985.233(4)(b), 985.31(3)(k), and 985.311(3)(e), F.S., relating to jurisdiction, sentencing alternatives, commitment of serious or habitual juvenile offenders, and eligibility for an intensive residential treatment program for offenders less than 13 years of age, respectively, to incorporate the amendment to s. 985.231, F.S., in reference thereto; amending s. 985.407, F.S.; changing the level of background screening required for certain department and provider employees from level 1 to level 2; requiring federal criminal records checks every 5 years for certain department and provider employees; providing for electronic submission of specified fingerprint information; providing for retention of specified fingerprint information; providing for searches; requiring the adoption of rules; providing for an annual fee; providing for notice of changes in the employment status of persons whose fingerprint information is retained; requiring the removal of fingerprint information upon the occurrence of specified events; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1978** as amended and read the second time by title.

MOTION

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

Senator Crist moved the following amendment:

Amendment 1 (741866)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 985.03, Florida Statutes, is amended to read:

985.03 Definitions.—As ~~When~~ used in this chapter, the term:

- (1) “Addictions receiving facility” means a substance abuse service provider as defined in chapter 397.
- (2) “Adjudicatory hearing” means a hearing for the court to determine whether or not the facts support the allegations stated in the petition, as is provided for under s. 985.228 in delinquency cases.
- (3) “Adult” means any natural person other than a child.
- (4) “Arbitration” means a process whereby a neutral third person or panel, called an arbitrator or an arbitration panel, considers the facts and arguments presented by the parties and renders a decision which may be binding or nonbinding.
- (5) “Authorized agent” or “designee” of the department means a person or agency assigned or designated by the department of Juvenile Justice or the Department of Children and Family Services, as appropriate, to perform duties or exercise powers ~~under pursuant to~~ this chapter and includes contract providers and their employees for purposes of

providing services to and managing cases of children in need of services and families in need of services.

(6) “Child” or “juvenile” or “youth” means any unmarried person under the age of 18 who has not been emancipated by order of the court and who has been found or alleged to be dependent, in need of services, or from a family in need of services; or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years.

(7) “Child eligible for an intensive residential treatment program for offenders less than 13 years of age” means a child who has been found to have committed a delinquent act or a violation of law in the case currently before the court and who meets at least one of the following criteria:

(a) The child is less than 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:

1. Arson;
2. Sexual battery;
3. Robbery;
4. Kidnapping;
5. Aggravated child abuse;
6. Aggravated assault;
7. Aggravated stalking;
8. Murder;
9. Manslaughter;
10. Unlawful throwing, placing, or discharging of a destructive device or bomb;
11. Armed burglary;
12. Aggravated battery;
13. Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age; or
14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony.

(b) The child is less than 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed at least once to a delinquency commitment program.

(c) The child is less than 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.

(8) “Child in need of services” means a child for whom there is no pending investigation into an allegation or suspicion of abuse, neglect, or abandonment; no pending referral alleging the child is delinquent; or no current supervision by the department of Juvenile Justice or the Department of Children and Family Services for an adjudication of dependency or delinquency. The child must also, *under pursuant to* this chapter, be found by the court:

(a) To have persistently run away from the child’s parents or legal custodians despite reasonable efforts of the child, the parents or legal custodians, and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts shall include voluntary participation by the child’s parents or legal custodians and the child in family mediation, services, and treatment offered by the department of Juvenile Justice or the Department of Children and Family Services;

(b) To be habitually truant from school, while subject to compulsory school attendance, despite reasonable efforts to remedy the situation *under pursuant to* ss. 1003.26 and 1003.27 and through voluntary participation by the child’s parents or legal custodians and by the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Children and Family Services; or

(c) To have persistently disobeyed the reasonable and lawful demands of the child’s parents or legal custodians, and to be beyond their control despite efforts by the child’s parents or legal custodians and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts may include such things as good faith participation in family or individual counseling.

(9) “Child who has been found to have committed a delinquent act” means a child who, *under pursuant to the provisions of* this chapter, is found by a court to have committed a violation of law or to be in direct or indirect contempt of court, except that this definition *does shall* not include an act constituting contempt of court arising out of a dependency proceeding or a proceeding *under pursuant to* part III of this chapter.

(10) “Child support” means a court-ordered obligation, enforced under chapter 61 and ss. 409.2551-409.2597, for monetary support for the care, maintenance, training, and education of a child.

(11) “Circuit” means any of the 20 judicial circuits as set forth in s. 26.021.

(12) “Comprehensive assessment” or “assessment” means the gathering of information for the evaluation of a juvenile offender’s or a child’s physical, psychological, educational, vocational, and social condition and family environment as they relate to the child’s need for rehabilitative and treatment services, including substance abuse treatment services, mental health services, developmental services, literacy services, medical services, family services, and other specialized services, as appropriate.

(13) “Conditional release” means the care, treatment, help, and supervision provided to a juvenile released from a residential commitment program which is intended to promote rehabilitation and prevent recidivism. The purpose of conditional release is to protect the public, reduce recidivism, increase responsible productive behavior, and provide for a successful transition of the youth from the department to the family. Conditional release includes, but is not limited to, nonresidential community-based programs.

(14) “Court,” unless otherwise expressly stated, means the circuit court assigned to exercise jurisdiction under this chapter.

(15) “Day treatment” means a nonresidential, community-based program designed to provide therapeutic intervention to youth who are placed on probation or conditional release or are committed to the minimum-risk nonresidential level. A day treatment program may provide educational and vocational services and shall provide case-management services; individual, group, and family counseling; training designed to address delinquency risk factors; and monitoring of a youth’s compliance with, and facilitation of a youth’s completion of, sanctions if ordered by the court. Program types may include, but are not limited to, career programs, marine programs, juvenile justice alternative schools, training and rehabilitation programs, and gender-specific programs.

(16)(a)(15)(a) “Delinquency program” means any intake, probation, or similar program; regional detention center or facility; or community-based program, whether owned and operated by or contracted by the department of Juvenile Justice, or institution owned and operated by or contracted by the department of Juvenile Justice, which provides intake, supervision, or custody and care of children who are alleged to be or who have been found to be delinquent *under pursuant to* part II.

(b) “Delinquency program staff” means supervisory and direct care staff of a delinquency program as well as support staff who have direct contact with children in a delinquency program.

(c) “Delinquency prevention programs” means programs designed for the purpose of reducing the occurrence of delinquency, including youth and street gang activity, and juvenile arrests. The term excludes arbitration, diversionary or mediation programs, and community service work or other treatment available subsequent to a child committing a delinquent act.

(17)(16) “Department” means the Department of Juvenile Justice.

(18)(17) “Designated facility” or “designated treatment facility” means any facility designated by the department of Juvenile Justice to provide treatment to juvenile offenders.

(19)(18) "Detention care" means the temporary care of a child in secure, nonsecure, or home detention, pending a court adjudication or disposition or execution of a court order. There are three types of detention care, as follows:

(a) "Secure detention" means temporary custody of the child while the child is under the physical restriction of a detention center or facility pending adjudication, disposition, or placement.

(b) "Nonsecure detention" means temporary custody of the child while the child is in a residential home in the community in a physically nonrestrictive environment under the supervision of the Department of Juvenile Justice pending adjudication, disposition, or placement.

(c) "Home detention" means temporary custody of the child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of the department of Juvenile Justice staff pending adjudication, disposition, or placement.

(20)(19) "Detention center or facility" means a facility used pending court adjudication or disposition or execution of court order for the temporary care of a child alleged or found to have committed a violation of law. A detention center or facility may provide secure or nonsecure custody. A facility used for the commitment of adjudicated delinquents shall not be considered a detention center or facility.

(21)(20) "Detention hearing" means a hearing for the court to determine if a child should be placed in temporary custody, as provided for under ss. 985.213 and 985.215 in delinquency cases.

(22)(21) "Disposition hearing" means a hearing in which the court determines the most appropriate dispositional services in the least restrictive available setting provided for under s. 985.231, in delinquency cases.

(23)(22) "Family" means a collective of persons, consisting of a child and a parent, guardian, adult custodian, or adult relative, in which:

(a) The persons reside in the same house or living unit; or

(b) The parent, guardian, adult custodian, or adult relative has a legal responsibility by blood, marriage, or court order to support or care for the child.

(24)(23) "Family in need of services" means a family that has a child for whom there is no pending investigation into an allegation of abuse, neglect, or abandonment or no current supervision by the department of Juvenile Justice or the Department of Children and Family Services for an adjudication of dependency or delinquency. The child must also have been referred to a law enforcement agency or the department of Juvenile Justice for:

(a) Running away from parents or legal custodians;

(b) Persistently disobeying reasonable and lawful demands of parents or legal custodians, and being beyond their control; or

(c) Habitual truancy from school.

(25)(24) "Foster care" means care provided a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof.

(26)(25) "Habitually truant" means that:

(a) The child has 15 unexcused absences within 90 calendar days with or without the knowledge or justifiable consent of the child's parent or legal guardian, is subject to compulsory school attendance under s. 1003.21(1) and (2)(a), and is not exempt under s. 1003.21(3), s. 1003.24, or any other exemptions specified by law or the rules of the State Board of Education.

(b) Escalating activities to determine the cause, and to attempt the remediation, of the child's truant behavior under ss. 1003.26 and 1003.27 have been completed.

If a child who is subject to compulsory school attendance is responsive to the interventions described in ss. 1003.26 and 1003.27 and has completed the necessary requirements to pass the current grade as indicated

in the district pupil progression plan, the child shall not be determined to be habitually truant and shall be passed. If a child within the compulsory school attendance age has 15 unexcused absences within 90 calendar days or fails to enroll in school, the state attorney may file a child-in-need-of-services petition. Before ~~Prior to~~ filing a petition, the child must be referred to the appropriate agency for evaluation. After consulting with the evaluating agency, the state attorney may elect to file a child-in-need-of-services petition.

(c) A school representative, designated according to school board policy, and a juvenile probation officer of the department of Juvenile Justice have jointly investigated the truancy problem or, if that was not feasible, have performed separate investigations to identify conditions that could be contributing to the truant behavior; and if, after a joint staffing of the case to determine the necessity for services, such services were determined to be needed, the persons who performed the investigations met jointly with the family and child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the truant behavior.

(d) The failure or refusal of the parent or legal guardian or the child to participate, or make a good faith effort to participate, in the activities prescribed to remedy the truant behavior, or the failure or refusal of the child to return to school after participation in activities required by this subsection, or the failure of the child to stop the truant behavior after the school administration and the department of Juvenile Justice have worked with the child as described in s. 1003.27(3) shall be handled as prescribed in s. 1003.27.

(27)(26) "Halfway house" means a community-based residential program for 10 or more committed delinquents at the moderate-risk commitment level which is operated or contracted by the department of Juvenile Justice.

(28)(27) "Intake" means the initial acceptance and screening by the department of Juvenile Justice of a complaint or a law enforcement report or probable cause affidavit of delinquency, family in need of services, or child in need of services to determine the recommendation to be taken in the best interests of the child, the family, and the community. The emphasis of intake is on diversion and the least restrictive available services. Consequently, intake includes such alternatives as:

(a) The disposition of the complaint, report, or probable cause affidavit without court or public agency action or judicial handling when appropriate.

(b) The referral of the child to another public or private agency when appropriate.

(c) The recommendation by the juvenile probation officer of judicial handling when appropriate and warranted.

(29)(28) "Judge" means the circuit judge exercising jurisdiction pursuant to this chapter.

(30)(29) "Juvenile justice continuum" includes, but is not limited to, delinquency prevention programs and services designed for the purpose of preventing or reducing delinquent acts, including criminal activity by youth gangs, and juvenile arrests, as well as programs and services targeted at children who have committed delinquent acts, and children who have previously been committed to residential treatment programs for delinquents. The term includes children-in-need-of-services and families-in-need-of-services programs; conditional release; substance abuse and mental health programs; educational and career programs; recreational programs; community services programs; community service work programs; and alternative dispute resolution programs serving children at risk of delinquency and their families, whether offered or delivered by state or local governmental entities, public or private for-profit or not-for-profit organizations, or religious or charitable organizations.

(31)(30) "Juvenile probation officer" means the authorized agent of the department of Juvenile Justice who performs the intake, case management, or supervision functions.

(32)(31) "Juvenile sexual offender" means:

(a) A juvenile who has been found by the court ~~under pursuant to~~ s. 985.228 to have committed a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133;

(b) A juvenile found to have committed any felony violation of law or delinquent act involving juvenile sexual abuse. "Juvenile sexual abuse" means any sexual behavior which occurs without consent, without equality, or as a result of coercion. For purposes of this subsection, the following definitions apply:

1. "Coercion" means the exploitation of authority, use of bribes, threats of force, or intimidation to gain cooperation or compliance.
2. "Equality" means two participants operating with the same level of power in a relationship, neither being controlled nor coerced by the other.
3. "Consent" means an agreement including all of the following:
 - a. Understanding what is proposed based on age, maturity, developmental level, functioning, and experience.
 - b. Knowledge of societal standards for what is being proposed.
 - c. Awareness of potential consequences and alternatives.
 - d. Assumption that agreement or disagreement will be accepted equally.
 - e. Voluntary decision.
 - f. Mental competence.

Juvenile sexual offender behavior ranges from noncontact sexual behavior such as making obscene phone calls, exhibitionism, voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape, fellatio, sodomy, and various other sexually aggressive acts.

(33)(32) "Legal custody or guardian" means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

(34)(33) "Licensed child-caring agency" means a person, society, association, or agency licensed by the Department of Children and Family Services to care for, receive, and board children.

(35)(34) "Licensed health care professional" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a nurse licensed under part I of chapter 464, a physician assistant licensed under chapter 458 or chapter 459, or a dentist licensed under chapter 466.

(36)(35) "Likely to injure oneself" means that, as evidenced by violent or other actively self-destructive behavior, it is more likely than not that within a 24-hour period the child will attempt to commit suicide or inflict serious bodily harm on himself or herself.

(37)(36) "Likely to injure others" means that it is more likely than not that within a 24-hour period the child will inflict serious and unjustified bodily harm on another person.

(38)(37) "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision-making authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives.

(39)(38) "Necessary medical treatment" means care which is necessary within a reasonable degree of medical certainty to prevent the deterioration of a child's condition or to alleviate immediate pain of a child.

(40)(39) "Next of kin" means an adult relative of a child who is the child's brother, sister, grandparent, aunt, uncle, or first cousin.

(41)(40) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. 39.503(1) or s. 63.062(1).

(42)(41) "Preliminary screening" means the gathering of preliminary information to be used in determining a child's need for further evaluation or assessment or for referral for other substance abuse services through means such as psychosocial interviews; urine and breathalyzer screenings; and reviews of available educational, delinquency, and dependency records of the child.

(43)(42) "Preventive services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal guardian of the child, or the custodian of the child and to the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other supportive and rehabilitative services shall promote the child's need for a safe, continuous, stable living environment and shall promote family autonomy and shall strengthen family life as the first priority whenever possible.

(44)(43) "Probation" means the legal status of probation created by law and court order in cases involving a child who has been found to have committed a delinquent act. Probation is an individualized program in which the freedom of the child is limited and the child is restricted to noninstitutional quarters or restricted to the child's home in lieu of commitment to the custody of the department of Juvenile Justice. Youth on probation may be assessed and classified for placement in day-treatment probation programs designed for youth who represent a minimum risk to themselves and public safety and do not require placement and services in a residential setting. ~~Program types in this more intensive and structured day-treatment probation option include career programs, marine programs, juvenile justice alternative schools, training and rehabilitation programs, and gender-specific programs.~~

(45)(44) "Relative" means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

(46)(45) "~~Restrictiveness Residential Commitment~~ level" means the level of *programming and security* provided by programs that service the supervision, custody, care, and treatment needs of committed children. Sections 985.3141 and 985.404(11) apply to children placed in programs at any residential commitment level. The *restrictiveness* levels of residential commitment are as follows:

(a) *Minimum-risk nonresidential.*—Programs or program models at this commitment level work with youth who remain in the community and participate at least 5 days per week in a day treatment program. Youth assessed and classified for programs at this commitment level represent a minimum risk to themselves and public safety and do not require placement and services in residential settings. Youth in this level have full access to, and reside in, the community. Youth who have been found to have committed delinquent acts that involve firearms, that are sexual offenses, or that would be life felonies or first-degree felonies if committed by an adult may not be committed to a program at this level.

(b)(a) *Low-risk residential.*—Programs or program models at this commitment level are residential but may allow youth to have unsupervised access to the community. Youth assessed and classified for placement in programs at this commitment level represent a low risk to themselves and public safety but do require placement and services in residential settings. Children who have been found to have committed delinquent acts that involve firearms, delinquent acts that are sexual offenses, or delinquent acts that would be life felonies or first degree felonies if committed by an adult shall not be committed to a program at this level.

(c)(b) *Moderate-risk residential.*—Programs or program models at this commitment level are residential but may allow youth to have

supervised access to the community. Facilities are either environmentally secure, staff secure, or are hardware-secure with walls, fencing, or locking doors. Facilities shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for placement in programs at this commitment level represent a moderate risk to public safety and require close supervision. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary.

(d)(e) High-risk residential.—Programs or program models at this commitment level are residential and *do shall* not allow youth to have access to the community *except that, temporary release providing community access for up to 72 continuous hours may be approved by a court for a youth who has made successful progress in his or her program in order for the youth to attend a family emergency or, during the final 60 days of his or her placement, to visit his or her home, enroll in school or a vocational program, complete a job interview, or participate in a community service project.* High-risk residential facilities are hardware-secure with perimeter fencing and locking doors. Facilities shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for this level of placement require close supervision in a structured residential setting. Placement in programs at this level is prompted by a concern for public safety that outweighs placement in programs at lower commitment levels. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. The facility may provide for single cell occupancy.

(e)(d) Maximum-risk residential.—Programs or program models at this commitment level include juvenile correctional facilities and juvenile prisons. The programs are long-term residential and *do shall* not allow youth to have access to the community. Facilities are maximum-custody hardware-secure with perimeter security fencing and locking doors. Facilities shall provide 24-hour awake supervision, custody, care, and treatment of residents. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. The facility shall provide for single cell occupancy, except that youth may be housed together during prerelease transition. Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting. Placement in a program at this level is prompted by a demonstrated need to protect the public.

(47)(46) “Respite” means a placement that is available for the care, custody, and placement of a youth charged with domestic violence as an alternative to secure detention or for placement of a youth when a shelter bed for a child in need of services or a family in need of services is unavailable.

(48)(47) “Secure detention center or facility” means a physically restricting facility for the temporary care of children, pending adjudication, disposition, or placement.

(49)(48) “Serious or habitual juvenile offender,” for purposes of commitment to a residential facility and for purposes of records retention, means a child who has been found to have committed a delinquent act or a violation of law, in the case currently before the court, and who meets at least one of the following criteria:

(a) The youth is at least 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:

1. Arson;
2. Sexual battery;
3. Robbery;
4. Kidnapping;
5. Aggravated child abuse;
6. Aggravated assault;
7. Aggravated stalking;
8. Murder;

9. Manslaughter;

10. Unlawful throwing, placing, or discharging of a destructive device or bomb;

11. Armed burglary;

12. Aggravated battery;

13. Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age; or

14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony.

(b) The youth is at least 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed at least two times to a delinquency commitment program.

(c) The youth is at least 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.

(50)(49) “Serious or habitual juvenile offender program” means the program established in s. 985.31.

(51)(50) “Shelter” means a place for the temporary care of a child who is alleged to be or who has been found to be delinquent.

(52)(51) “Shelter hearing” means a hearing provided for under s. 984.14 in family-in-need-of-services cases or child-in-need-of-services cases.

(53)(52) “Staff-secure shelter” means a facility in which a child is supervised 24 hours a day by staff members who are awake while on duty. The facility is for the temporary care and assessment of a child who has been found to be dependent, who has violated a court order and been found in contempt of court, or whom the Department of Children and Family Services is unable to properly assess or place for assistance within the continuum of services provided for dependent children.

(54)(53) “Substance abuse” means using, without medical reason, any psychoactive or mood-altering drug, including alcohol, in such a manner as to induce impairment resulting in dysfunctional social behavior.

(55)(54) “Taken into custody” means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child’s release, detention, placement, or other disposition as authorized by law.

(56)(55) “Temporary legal custody” means the relationship that a juvenile court creates between a child and an adult relative of the child, adult nonrelative approved by the court, or other person until a more permanent arrangement is ordered. Temporary legal custody confers upon the custodian the right to have temporary physical custody of the child and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the temporary legal custody relationship.

(57)(56) “Temporary release” means the terms and conditions under which a child is temporarily released from a residential commitment facility or allowed home visits. If the temporary release is from a moderate-risk residential facility, a high-risk residential facility, or a maximum-risk residential facility, the terms and conditions of the temporary release must be approved by the child, the court, and the facility. The term includes periods during which the child is supervised pursuant to a conditional release program or a period during which the child is supervised by a juvenile probation officer or other nonresidential staff of the department or staff employed by an entity under contract with the department.

(58)(57) “Training school” means one of the following facilities: the Arthur G. Dozier School or the Eckerd Youth Development Center.

(59)(58) “Violation of law” or “delinquent act” means a violation of any law of this state, the United States, or any other state which is a

misdeemeanor or a felony or a violation of a county or municipal ordinance which would be punishable by incarceration if the violation were committed by an adult.

(60)(59) “Waiver hearing” means a hearing provided for under s. 985.226(3).

Section 2. Paragraph (d) of subsection (1) of section 985.207, Florida Statutes, is amended to read:

985.207 Taking a child into custody.—

(1) A child may be taken into custody under the following circumstances:

(d) By a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the child’s probation, home detention, postcommitment probation, or conditional release supervision, *has absconded from nonresidential commitment*, or has escaped from *residential commitment*.

Nothing in this subsection shall be construed to allow the detention of a child who does not meet the detention criteria in s. 985.215.

Section 3. Section 985.208, Florida Statutes, is amended to read:

985.208 Detention of escapee or *absconder* on authority of the department.—

(1) If an authorized agent of the department has reasonable grounds to believe that any delinquent child committed to the department has escaped from a *residential commitment facility of the department* or from being lawfully transported thereto or therefrom, *or has absconded from a nonresidential commitment facility*, the agent may take the child into active custody and may deliver the child to the facility or, if it is closer, to a detention center for return to the facility. However, a child may not be held in detention longer than 24 hours, excluding Saturdays, Sundays, and legal holidays, unless a special order so directing is made by the judge after a detention hearing resulting in a finding that detention is required based on the criteria in s. 985.215(2). The order shall state the reasons for such finding. The reasons shall be reviewable by appeal or in habeas corpus proceedings in the district court of appeal.

(2) Any sheriff or other law enforcement officer, upon the request of the secretary of the department or duly authorized agent, shall take a child who has escaped ~~or absconded from a residential commitment department facility for committed delinquent children~~, or from being lawfully transported thereto or therefrom, *or has absconded from a nonresidential commitment facility*, into custody and deliver the child to the appropriate juvenile probation officer ~~of the department~~.

Section 4. Subsections (2) and (10) of section 985.215, Florida Statutes, are amended to read:

985.215 Detention.—

(2) Subject to the provisions of subsection (1), a child taken into custody and placed into nonsecure or home detention care or detained in secure detention care prior to a detention hearing may continue to be detained by the court if:

(a) The child is alleged to be an escapee *from a residential commitment program* or an absconder from a *nonresidential commitment program*, a probation program, or conditional release supervision, or is alleged to have escaped while being lawfully transported to or from a *residential commitment such program or supervision*.

(b) The child is wanted in another jurisdiction for an offense which, if committed by an adult, would be a felony.

(c) The child is charged with a delinquent act or violation of law and requests in writing through legal counsel to be detained for protection from an imminent physical threat to his or her personal safety.

(d) The child is charged with committing an offense of domestic violence as defined in s. 741.28 and is detained as provided in s. 985.213(2)(b)3.

(e) The child is charged with possession or discharging a firearm on school property in violation of s. 790.115.

(f) The child is charged with a capital felony, a life felony, a felony of the first degree, a felony of the second degree that does not involve a violation of chapter 893, or a felony of the third degree that is also a crime of violence, including any such offense involving the use or possession of a firearm.

(g) The child is charged with any second degree or third degree felony involving a violation of chapter 893 or any third degree felony that is not also a crime of violence, and the child:

1. Has a record of failure to appear at court hearings after being properly notified in accordance with the Rules of Juvenile Procedure;
2. Has a record of law violations prior to court hearings;
3. Has already been detained or has been released and is awaiting final disposition of the case;
4. Has a record of violent conduct resulting in physical injury to others; or
5. Is found to have been in possession of a firearm.

(h) The child is alleged to have violated the conditions of the child’s probation or conditional release supervision. However, a child detained under this paragraph may be held only in a consequence unit as provided in s. 985.231(1)(a)1.c. If a consequence unit is not available, the child shall be placed on home detention with electronic monitoring.

(i) The child is detained on a judicial order for failure to appear and has previously willfully failed to appear, after proper notice, for an adjudicatory hearing on the same case regardless of the results of the risk assessment instrument. A child may be held in secure detention for up to 72 hours in advance of the next scheduled court hearing pursuant to this paragraph. The child’s failure to keep the clerk of court and defense counsel informed of a current and valid mailing address where the child will receive notice to appear at court proceedings does not provide an adequate ground for excusal of the child’s nonappearance at the hearings.

(j) The child is detained on a judicial order for failure to appear and has previously willfully failed to appear, after proper notice, at two or more court hearings of any nature on the same case regardless of the results of the risk assessment instrument. A child may be held in secure detention for up to 72 hours in advance of the next scheduled court hearing pursuant to this paragraph. The child’s failure to keep the clerk of court and defense counsel informed of a current and valid mailing address where the child will receive notice to appear at court proceedings does not provide an adequate ground for excusal of the child’s nonappearance at the hearings.

A child who meets any of these criteria and who is ordered to be detained pursuant to this subsection shall be given a hearing within 24 hours after being taken into custody. The purpose of the detention hearing is to determine the existence of probable cause that the child has committed the delinquent act or violation of law with which he or she is charged and the need for continued detention, *except when the child is alleged to have absconded from a nonresidential commitment program, in which case the court, at the detention hearing, shall order that the child be released from detention and returned to his or her nonresidential commitment program*. Unless a child is detained under paragraph (d) or paragraph (e), the court shall ~~use~~ *utilize* the results of the risk assessment performed by the juvenile probation officer and, based on the criteria in this subsection, shall determine the need for continued detention. A child placed into secure, nonsecure, or home detention care may continue to be so detained by the court pursuant to this subsection. If the court orders a placement more restrictive than indicated by the results of the risk assessment instrument, the court shall state, in writing, clear and convincing reasons for such placement. Except as provided in s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c), or paragraph (10)(d), when a child is placed into secure or nonsecure detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in paragraph (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1., whichever is applicable, unless the requirements of such applicable provision have been met or an order of continuance has been granted pursuant to paragraph (5)(f).

(10)(a)1. When a child is committed to the department of Juvenile Justice awaiting dispositional placement, removal of the child from detention care shall occur within 5 days, excluding Saturdays, Sundays, and legal holidays. Any child held in secure detention during the 5 days must meet detention admission criteria pursuant to this section. If the child is committed to a moderate-risk residential program, the department may seek an order from the court authorizing continued detention for a specific period of time necessary for the appropriate residential placement of the child. However, such continued detention in secure detention care may not exceed 15 days after commitment, excluding Saturdays, Sundays, and legal holidays, and except as otherwise provided in this subsection.

2. The court must place all children who are adjudicated and awaiting placement in a residential commitment program in detention care. Children who are in home detention care or nonsecure detention care may be placed on electronic monitoring.

(b) A child who is placed in home detention care, nonsecure detention care, or home or nonsecure detention care with electronic monitoring, while awaiting placement in a *minimum-risk*, low-risk, or moderate-risk program, may be held in secure detention care for 5 days, if the child violates the conditions of the home detention care, the nonsecure detention care, or the electronic monitoring agreement. For any subsequent violation, the court may impose an additional 5 days in secure detention care.

(c) If the child is committed to a high-risk residential program, the child must be held in detention care until placement or commitment is accomplished.

(d) If the child is committed to a maximum-risk residential program, the child must be held in detention care until placement or commitment is accomplished.

(e) Upon specific appropriation, the department may obtain comprehensive evaluations, including, but not limited to, medical, academic, psychological, behavioral, sociological, and vocational needs of a youth with multiple arrests for all level criminal acts or a youth committed to a minimum-risk or low-risk commitment program.

(f) Regardless of detention status, a child being transported by the department to a residential commitment facility of the department may be placed in secure detention overnight, not to exceed a 24-hour period, for the specific purpose of ensuring the safe delivery of the child to his or her residential commitment program, court, appointment, transfer, or release.

Section 5. Paragraph (b) of subsection (2) of section 985.2155, Florida Statutes, is amended to read:

985.2155 Shared county and state responsibility for juvenile detention.—

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

(b) “Fiscally constrained county” means a county ~~designated as a rural area of critical economic concern under s. 288.0656~~ for which the value of a mill in the county is no more than \$4 \$3 million, based on the property valuations and tax data annually published by the Department of Revenue under s. 195.052.

Section 6. Paragraphs (a) and (d) of subsection (1) and subsection (2) of section 985.231, Florida Statutes, are amended to read:

985.231 Powers of disposition in delinquency cases.—

(1)(a) The court that has jurisdiction of an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing:

1. Place the child in a probation program or a postcommitment probation program under the supervision of an authorized agent of the Department of Juvenile Justice or of any other person or agency specifically authorized and appointed by the court, whether in the child’s own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct. A probation program for an adjudicated delinquent child must include a penalty

component such as restitution in money or in kind, community service, a curfew, revocation or suspension of the driver’s license of the child, or other nonresidential punishment appropriate to the offense and must also include a rehabilitative program component such as a requirement of participation in substance abuse treatment or in school or other educational program. If the child is attending or is eligible to attend public school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court placement order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d). Upon the recommendation of the department at the time of disposition, or subsequent to disposition pursuant to the filing of a petition alleging a violation of the child’s conditions of postcommitment probation, the court may order the child to submit to random testing for the purpose of detecting and monitoring the use of alcohol or controlled substances.

a. A restrictiveness level classification scale for levels of supervision shall be provided by the department, taking into account the child’s needs and risks relative to probation supervision requirements to reasonably ensure the public safety. Probation programs for children shall be supervised by the department or by any other person or agency specifically authorized by the court. These programs must include, but are not limited to, structured or restricted activities as described in this subparagraph, and shall be designed to encourage the child toward acceptable and functional social behavior. If supervision or a program of community service is ordered by the court, the duration of such supervision or program must be consistent with any treatment and rehabilitation needs identified for the child and may not exceed the term for which sentence could be imposed if the child were committed for the offense, except that the duration of such supervision or program for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months. When restitution is ordered by the court, the amount of restitution may not exceed an amount the child and the parent or guardian could reasonably be expected to pay or make. A child who participates in any work program under this part is considered an employee of the state for purposes of liability, unless otherwise provided by law.

b. The court may conduct judicial review hearings for a child placed on probation for the purpose of fostering accountability to the judge and compliance with other requirements, such as restitution and community service. The court may allow early termination of probation for a child who has substantially complied with the terms and conditions of probation.

c. If the conditions of the probation program or the postcommitment probation program are violated, the department or the state attorney may bring the child before the court on a petition alleging a violation of the program. Any child who violates the conditions of probation or postcommitment probation must be brought before the court if sanctions are sought. A child taken into custody under s. 985.207 for violating the conditions of probation or postcommitment probation shall be held in a consequence unit if such a unit is available. The child shall be afforded a hearing within 24 hours after being taken into custody to determine the existence of probable cause that the child violated the conditions of probation or postcommitment probation. A consequence unit is a secure facility specifically designated by the department for children who are taken into custody under s. 985.207 for violating probation or postcommitment probation, or who have been found by the court to have violated the conditions of probation or postcommitment probation. If the violation involves a new charge of delinquency, the child may be detained under s. 985.215 in a facility other than a consequence unit. If the child is not eligible for detention for the new charge of delinquency, the child may be held in the consequence unit pending a hearing and is subject to the time limitations specified in s. 985.215. If the child denies violating the conditions of probation or postcommitment probation, the court shall appoint counsel to represent the child at the child’s request. Upon the child’s admission, or if the court finds after a hearing that the child has violated the conditions of probation or postcommitment probation, the court shall enter an order revoking, modifying, or continuing probation or postcommitment probation. In each such case, the court shall enter a new disposition order and, in addition to the sanctions set forth in this paragraph, may impose any sanction the court could have imposed at the original disposition hearing. If the child is found to have violated the conditions of probation or postcommitment probation, the court may:

(I) Place the child in a consequence unit in that judicial circuit, if available, for up to 5 days for a first violation, and up to 15 days for a second or subsequent violation.

(II) Place the child on home detention with electronic monitoring. However, this sanction may be used only if a residential consequence unit is not available.

(III) Modify or continue the child's probation program or postcommitment probation program.

(IV) Revoke probation or postcommitment probation and commit the child to the department.

d. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of any order placing a child in a probation program must be until the child's 19th birthday unless he or she is released by the court, on the motion of an interested party or on its own motion.

2. Commit the child to a licensed child-caring agency willing to receive the child, but the court may not commit the child to a jail or to a facility used primarily as a detention center or facility or shelter.

3. Commit the child to the department of Juvenile Justice at a ~~restrictiveness residential commitment~~ level defined in s. 985.03. Such commitment must be for the purpose of exercising active control over the child, including, but not limited to, custody, care, training, urine monitoring, and treatment of the child and release of the child from residential commitment into the community in a postcommitment nonresidential conditional release program. If the child is eligible to attend public school following residential commitment and the court finds that the victim or a sibling of the victim in the case is or may be attending the same school as the child, the commitment order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d). If the child is not successful in the conditional release program, the department may use the transfer procedure under s. 985.404. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of the commitment must be until the child is discharged by the department or until he or she reaches the age of 21.

4. Revoke or suspend the driver's license of the child.

5. Require the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to render community service in a public service program.

6. As part of the probation program to be implemented by the Department of Juvenile Justice, or, in the case of a committed child, as part of the community-based sanctions ordered by the court at the disposition hearing or before the child's release from commitment, order the child to make restitution in money, through a promissory note cosigned by the child's parent or guardian, or in kind for any damage or loss caused by the child's offense in a reasonable amount or manner to be determined by the court. The clerk of the circuit court shall be the receiving and dispensing agent. In such case, the court shall order the child or the child's parent or guardian to pay to the office of the clerk of the circuit court an amount not to exceed the actual cost incurred by the clerk as a result of receiving and dispensing restitution payments. The clerk shall notify the court if restitution is not made, and the court shall take any further action that is necessary against the child or the child's parent or guardian. A finding by the court, after a hearing, that the parent or guardian has made diligent and good faith efforts to prevent the child from engaging in delinquent acts absolves the parent or guardian of liability for restitution under this subparagraph.

7. Order the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to participate in a community work project, either as an alternative to monetary restitution or as part of the rehabilitative or probation program.

8. Commit the child to the Department of Juvenile Justice for placement in a program or facility for serious or habitual juvenile offenders in accordance with s. 985.31. Any commitment of a child to a program or facility for serious or habitual juvenile offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over such child until the child reaches the age of 21, specifically for the purpose of the child completing the program.

9. In addition to the sanctions imposed on the child, order the parent or guardian of the child to perform community service if the court finds

that the parent or guardian did not make a diligent and good faith effort to prevent the child from engaging in delinquent acts. The court may also order the parent or guardian to make restitution in money or in kind for any damage or loss caused by the child's offense. The court shall determine a reasonable amount or manner of restitution, and payment shall be made to the clerk of the circuit court as provided in subparagraph 6.

10. Subject to specific appropriation, commit the juvenile sexual offender to the Department of Juvenile Justice for placement in a program or facility for juvenile sexual offenders in accordance with s. 985.308. Any commitment of a juvenile sexual offender to a program or facility for juvenile sexual offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over a juvenile sexual offender until the juvenile sexual offender reaches the age of 21, specifically for the purpose of completing the program.

(d) Any commitment of a delinquent child to the Department of Juvenile Justice must be for an indeterminate period of time, which may include periods of temporary release; *however, but the period of time may not exceed the maximum term of imprisonment that an adult may serve for the same offense, except that the duration of a minimum-risk, nonresidential commitment for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months.* The duration of the child's placement in a residential commitment program of any restrictiveness level shall be based on objective performance-based treatment planning. The child's treatment plan progress and adjustment-related issues shall be reported to the court quarterly, *unless the court requests monthly reports each month.* The child's length of stay in a residential commitment program may be extended if the child fails to comply with or participate in treatment activities. The child's length of stay in such program shall not be extended for purposes of sanction or punishment. Any temporary release from such program must be approved by the court. Any child so committed may be discharged from institutional confinement or a program upon the direction of the department with the concurrence of the court. The child's treatment plan progress and adjustment-related issues must be communicated to the court at the time the department requests the court to consider releasing the child from the residential commitment program. Notwithstanding s. 743.07 and this subsection, and except as provided in ss. 985.201 and 985.31, a child may not be held under a commitment from a court *under pursuant to* this section after becoming 21 years of age. The department shall give the court that committed the child to the department reasonable notice, in writing, of its desire to discharge the child from a commitment facility. The court that committed the child may thereafter accept or reject the request. If the court does not respond within 10 days after receipt of the notice, the request of the department shall be deemed granted. This section does not limit the department's authority to revoke a child's temporary release status and return the child to a commitment facility for any violation of the terms and conditions of the temporary release.

(2) Following a delinquency adjudicatory hearing pursuant to s. 985.228 and a delinquency disposition hearing pursuant to s. 985.23 which results in a commitment determination, the court shall, on its own or upon request by the state or the department, determine whether the protection of the public requires that the child be placed in a program for serious or habitual juvenile offenders and whether the particular needs of the child would be best served by a program for serious or habitual juvenile offenders as provided in s. 985.31. The determination shall be made pursuant to *ss. 985.03(49) ss. 985.03(48)* and 985.23(3).

Section 7. Paragraph (a) of subsection (1) of section 985.2311, Florida Statutes, is amended to read:

985.2311 Cost of supervision; cost of care.—

(1) Except as provided in subsection (3) or subsection (4):

(a) When any child is placed into home detention, probation, or other supervision status with the Department of Juvenile Justice, *or is committed to the minimum-risk, nonresidential restrictiveness level,* the court shall order the parent of such child to pay to the department a fee for the cost of the supervision of such child in the amount of \$1 per day for each day that the child is in *such supervision* status.

Section 8. Subsection (4) of section 985.407, Florida Statutes, is amended to read:

985.407 Departmental contracting powers; personnel standards and screening.—

(4)(a) For any person employed by the department, or by a provider under contract with the department, in delinquency facilities, services, or programs, the department shall require:

1. A level 2 employment screening pursuant to chapter 435 prior to employment; and, ~~using the level 1 standards for screening set forth in that chapter, for personnel in delinquency facilities, services, or programs.~~

2. A federal criminal records check by the Federal Bureau of Investigation every 5 years following the date of the person's employment.

(b) Except for law enforcement, correctional, and correctional probation officers, to whom s. 943.13(5) applies, the department shall electronically submit to the Department of Law Enforcement:

1. Fingerprint information obtained during the employment screening required by subparagraph (a)1.; and

2. Beginning December 15, 2005, fingerprint information for all persons employed by the department, or by a provider under contract with the department, in delinquency facilities, services, or programs if such fingerprint information has not previously been electronically submitted to the Department of Law Enforcement under this paragraph.

(c) All fingerprint information electronically submitted to the Department of Law Enforcement under paragraph (b) shall be retained by the Department of Law Enforcement and entered into the statewide automated fingerprint identification system authorized by s. 943.05(2)(b) and shall thereafter be available for all purposes and uses authorized for arrest fingerprint information entered into the statewide automated fingerprint identification system pursuant to s. 943.051 until the fingerprint information is removed pursuant to paragraph (e). The Department of Law Enforcement shall search all arrest fingerprint information received pursuant to s. 943.051 against the fingerprint information entered into the statewide automated fingerprint system pursuant to this subsection. Any arrest records identified as a result of the search shall be reported to the department in the manner and timeframe established by rule of the Department of Law Enforcement.

(d) The department shall pay an annual fee to the Department of Law Enforcement for its costs resulting from the fingerprint-information-retention services required by this subsection. The amount of the annual fee and procedures for the submission and retention of fingerprint information and for the dissemination of search results shall be established by rule of the Department of Law Enforcement which is applicable to the department individually pursuant to this subsection or is applicable to the department and other employing agencies pursuant to rulemaking authority otherwise provided by law.

(e) The department shall notify the Department of Law Enforcement when a person whose fingerprint information is retained by the Department of Law Enforcement under this subsection is no longer employed by the department, or by a provider under contract with the department, in a delinquency facility, service, or program. This notice shall be provided by the department to the Department of Law Enforcement no later than 6 months after the date of the change in the person's employment status. Fingerprint information for persons identified by the department in the notice shall be removed from the statewide automated fingerprint system.

Section 9. The sums of \$36,834 in recurring funds and \$86,407 in nonrecurring funds are appropriated from the General Revenue Fund to the Department of Juvenile Justice for expenses for the 2005-2006 fiscal year. The sum of \$133,335 in recurring funds is appropriated from the Administrative Trust Fund to the Department of Juvenile Justice for expenses for the 2005-2006 fiscal year.

Section 10. Subsection (3) of section 985.316, Florida Statutes, is amended to read:

985.316 Conditional release.—

(3) For juveniles referred or committed to the department, the function of the department may include, but shall not be limited to, assessing

each committed juvenile placed in a residential commitment program to determine the need for conditional release services upon release from the ~~a commitment~~ program, supervising the juvenile when released into the community from a residential commitment facility of the department, providing such counseling and other services as may be necessary for the families and assisting their preparations for the return of the child. Subject to specific appropriation, the department shall provide for outpatient sexual offender counseling for any juvenile sexual offender released from a commitment program as a component of conditional release.

Section 11. Section 985.403, Florida Statutes, is repealed.

Section 12. Task force on juvenile sexual offenders and their victims.—

(1) On or before August 1, 2005, the Department of Juvenile Justice shall create a task force to review and evaluate the state's laws that address juvenile sex offenders and the department's practices and procedures for serving these offenders and their victims. The task force shall make findings that include, but are not limited to, a profile of this state's juvenile sex offenders and of dispositions received by those offenders, identification of statutes that address these offenders, identification of community-based and commitment programming available for these offenders and of such programming's effectiveness, the appropriateness and rehabilitative efficacy of placing these offenders in residential commitment programs, and identification of qualifications required for staff who serve these offenders. Based on its findings, the task force shall make recommendations for how the state's laws, policies, programs, and funding for juvenile sexual offenders may be improved.

(2) The Secretary of Juvenile Justice, or his or her designee, shall appoint up to 12 members to the task force. The task force shall be composed of representatives who shall include, but are not limited to, the following: a circuit court judge with at least 1 year's experience in the juvenile division, a state attorney with at least 1 year's experience in the juvenile division, a public defender with at least 1 year's experience in the juvenile division, one representative of the Department of Juvenile Justice, two representatives of providers of juvenile sexual offender services, one member of the Florida Juvenile Justice Association, one member of the Florida Association for the Treatment of Sexual Abusers, and one victim of a juvenile sexual offense.

(3) The task force shall submit a written report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2005.

(4) Administrative support for the task force shall be provided by the Department of Juvenile Justice. Members of the task force shall receive no salary from the state beyond the salary already received from their sponsoring agency, if any, and are not entitled to reimbursement for travel and per diem expenses.

(5) The task force shall be dissolved upon the submission of its report.

Section 13. Task Force to study certification for juvenile justice provider staff.—

(1) On or before August 1, 2005, the Department of Juvenile Justice shall create a task force to study the feasibility of establishing a certification process for staff employed by a provider under contract with the Department of Juvenile Justice to provide juvenile justice services to youth.

(2) The Secretary of Juvenile Justice, or his or her designee, shall appoint up to 12 members to the task force. The task force shall be composed of representatives who shall include, but are not limited to, the following: two representatives of the Department of Juvenile Justice, two representatives of providers of juvenile justice services, two members of the Florida Juvenile Justice Association, two provider employees who provide direct care services, and two representatives of the Florida Certification Board.

(3) The task force shall consider the feasibility of implementing and operating a certification system for staff who work in juvenile justice facilities, services, or programs. At a minimum, the task force shall consider, and make recommendations concerning, the occupational levels of staff subject to certification, the criteria that may be used to certify staff, the levels of certification, and a process for testing and validating the

effectiveness of any recommended staff certification system. In making its recommendations, the task force shall make findings regarding the benefits of a staff certification system for this state's juvenile justice programming and the cost to implement such a system.

(4) The task force shall submit a written report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2006.

(5) Administrative support for the task force shall be provided by the Department of Juvenile Justice. Members of the task force shall receive no salary from the state beyond the salary already received from their sponsoring agency, if any, and are not entitled to reimbursement for travel and per diem expenses.

(6) The task force shall be dissolved upon the submission of its report.

Section 14. Subsection (10) of section 985.4135, Florida Statutes, is amended to read:

985.4135 Juvenile justice circuit boards and juvenile justice county councils.—

(10) Membership of the juvenile justice county councils, or juvenile justice circuit boards established under subsection (9), may ~~must~~ include representatives from the following entities:

(a) Representatives from the school district, which may include elected school board officials, the school superintendent, school or district administrators, teachers, and counselors.

(b) Representatives of the board of county commissioners.

(c) Representatives of the governing bodies of local municipalities within the county.

(d) A representative of the corresponding circuit or regional entity of the Department of Children and Family Services.

(e) Representatives of local law enforcement agencies, including the sheriff or the sheriff's designee.

(f) Representatives of the judicial system.

(g) Representatives of the business community.

(h) Representatives of other interested officials, groups, or entities, including, but not limited to, a children's services council, public or private providers of juvenile justice programs and services, students, parents, and advocates. Private providers of juvenile justice programs may not exceed one-third of the voting membership.

(i) Representatives of the faith community.

(j) Representatives of victim-service programs and victims of crimes.

(k) Representatives of the Department of Corrections.

Section 15. Section 784.075, Florida Statutes, is amended to read:

784.075 Battery on detention or commitment facility staff or a juvenile probation officer.—A person who commits a battery on a juvenile probation officer, as defined in s. 984.03 or s. 985.03, on other staff of a detention center or facility as defined in s. 984.03(19) or s. 985.03(20) ~~§ 985.03(19)~~, or on a staff member of a commitment facility as defined in s. 985.03(46) ~~§ 985.03(45)~~, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this section, a staff member of the facilities listed includes persons employed by the Department of Juvenile Justice, persons employed at facilities licensed by the Department of Juvenile Justice, and persons employed at facilities operated under a contract with the Department of Juvenile Justice.

Section 16. Subsection (2) of section 985.231, Florida Statutes, is amended to read:

985.231 Powers of disposition in delinquency cases.—

(2) Following a delinquency adjudicatory hearing pursuant to s. 985.228 and a delinquency disposition hearing pursuant to s. 985.23

which results in a commitment determination, the court shall, on its own or upon request by the state or the department, determine whether the protection of the public requires that the child be placed in a program for serious or habitual juvenile offenders and whether the particular needs of the child would be best served by a program for serious or habitual juvenile offenders as provided in s. 985.31. The determination shall be made pursuant to ~~ss. 985.03(49) §§ 985.03(48)~~ and 985.23(3).

Section 17. Paragraph (e) of subsection (3) and paragraph (a) of subsection (4) of section 985.31, Florida Statutes, are amended to read:

985.31 Serious or habitual juvenile offender.—

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(e) After a child has been adjudicated delinquent pursuant to s. 985.228, the court shall determine whether the child meets the criteria for a serious or habitual juvenile offender pursuant to s. 985.03(49) ~~§ 985.03(48)~~. If the court determines that the child does not meet such criteria, the provisions of s. 985.231(1) shall apply.

(4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.—

(a) Pursuant to the provisions of this section, the department shall implement the comprehensive assessment instrument for the treatment needs of serious or habitual juvenile offenders and for the assessment, which assessment shall include the criteria under s. 985.03(49) ~~§ 985.03(48)~~ and shall also include, but not be limited to, evaluation of the child's:

1. Amenability to treatment.

2. Proclivity toward violence.

3. Tendency toward gang involvement.

4. Substance abuse or addiction and the level thereof.

5. History of being a victim of child abuse or sexual abuse, or indication of sexual behavior dysfunction.

6. Number and type of previous adjudications, findings of guilt, and convictions.

7. Potential for rehabilitation.

Section 18. Section 985.3141, Florida Statutes, is amended to read:

985.3141 Escapes from secure detention or residential commitment facility.—An escape from:

(1) Any secure detention facility maintained for the temporary detention of children, pending adjudication, disposition, or placement;

(2) Any residential commitment facility described in s. 985.03(46) ~~§ 985.03(45)~~, maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or

(3) Lawful transportation to or from any such secure detention facility or residential commitment facility,

constitutes escape within the intent and meaning of s. 944.40 and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 19. This act shall take effect July 1, 2005.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to juvenile justice; amending s. 985.03, F.S.; redefining terms relating to juvenile justice; redefining the terms "day treatment" and "restrictiveness level"; amending s. 985.207, F.S.; clarifying when a child who escapes from a residential commitment or absconds from a nonresidential commitment may be taken into custody; amending s. 985.208, F.S.; providing that a child may be taken into custody for absconding from a nonresidential commitment facility; amending s. 985.215, F.S.; providing for release from detention for a

child who has absconded; providing for detention for committed children awaiting placement; providing secure detention for children awaiting minimum-risk placement who violate home or nonsecure detention or electronic monitoring; providing for secure detention for children being transported to residential commitment programs; amending s. 985.2155, F.S.; defining the term "fiscally constrained county"; amending s. 985.231, F.S.; incorporating newly defined terms to clarify the terms of a child's commitment; providing for the maximum length of a minimum-risk, nonresidential commitment for a child who commits a second-degree misdemeanor; providing that the department or a provider report quarterly to the court the child's progress with his or her treatment plan; conforming a cross-reference; amending s. 985.2311, F.S.; requiring parents to pay the costs of supervision related to minimum-risk, nonresidential commitment to the department; amending s. 985.316, F.S.; providing for assessment by the department of the need of juveniles in residential commitment for conditional release services; amending s. 985.407, F.S.; revising employee-screening procedures of the Department of Juvenile Justice; requiring the department to provide fingerprint information to the Department of Law Enforcement and pay an annual fee; providing appropriations; repealing s. 985.403, F.S., relating to the Task Force on Juvenile Sexual Offenders and their Victims; requiring the department to create a task force on juvenile sexual offenders and their victims; providing for membership, powers, duties, and dissolution of the task force; requiring a written report; directing the Department of Juvenile Justice to provide administrative support; prohibiting certain compensation or reimbursement of task force members; requiring the Department of Juvenile Justice to create a task force to study certification for juvenile justice provider staff; providing for membership, powers, duties and dissolution of the task force; requiring a written report; directing the department to provide administrative support; prohibiting certain compensation or reimbursement of task force members; amending s. 985.4135, F.S.; providing that membership of juvenile justice county councils or circuit boards may, rather than must, include certain entities; amending ss. 784.075, 985.231, 985.31, and 985.3141, F.S.; conforming cross-references; providing an effective date.

MOTION

On motion by Senator Crist, the rules were waived to allow the following amendments to be considered:

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

Amendment 1A (115350)—On page 28, lines 16-26, delete those lines and redesignate subsequent sections.

Amendment 1B (913930)(with title amendment)—On page 37, line 18 through page 39, line 21, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 48, lines 9-15, delete those lines and insert: conditional release services; repealing s. 985.403,

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **HB 1917** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Fasano—

CS for SB 1184—A bill to be entitled An act relating to statutory ways of necessity; amending s. 704.01, F.S.; revising criteria for establishing a statutory way of necessity exclusive of common-law right; amending s. 704.04, F.S.; removing a limitation on the existence of certain easements; providing for reenactment of certain provisions under certain circumstances; providing for effectiveness; providing an effective date.

—was read the second time by title.

Senator Fasano moved the following amendments which were adopted:

Amendment 1 (034092)—On page 1, lines 21-28, delete those lines and insert: exists when any land, *including land formed by accretion,*

reliction, or other naturally occurring processes, or portion thereof, outside any municipality which is being used or is desired to be used for a dwelling or dwellings or for agricultural or for timber raising or cutting or stockraising purposes is shall be shut off or hemmed in by lands, fencing, or other improvements by of other persons so that no practicable route of egress or ingress is shall be available therefrom to the nearest practicable public or private road in which the landlocked owner has vested easement rights. The owner or tenant thereof, or anyone in

Amendment 2 (761708)—On page 5, line 7, delete "July 1, 2005" and insert: upon becoming a law.

Senator Haridopolos moved the following amendment which was adopted:

Amendment 3 (773762)(with title amendment)—On page 5, between lines 6 and 7, insert:

Section 5. Section 166.0498, Florida Statutes, is created to read:

166.0498 Closing of a road by a municipality.—A municipality may not permanently close a road that crosses into or through an adjoining municipality until the following conditions have been met:

(1) *The municipality closing the road must adopt an ordinance and provide notice to the adjoining municipality of the public hearing for the adoption of the ordinance;*

(2) *The closure may not leave an area within the adjoining municipality with only one means of egress or ingress into the area;*

(3) *The closure must be reviewed by each municipality's emergency services providers, including, but not limited to, police and fire rescue, who must make a determination that the road closure will not adversely impact the delivery of such emergency services by an entity or adversely impact local or regional emergency preparedness, including, but not limited to, eliminating potential evacuation routes; and*

(4) *The municipality that is closing the road must provide signage, lighting, other necessary and appropriate safety signals for traffic, and paved roundabouts or other turn-around capability for all emergency vehicles on both sides of the barrier.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 9, after the second semicolon (;) insert: creating s. 166.0498, F.S.; prohibiting a municipality from permanently closing a road unless certain conditions are met;

MOTION

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

Senator Fasano moved the following amendment which was adopted:

Amendment 4 (483068)(with title amendment)—On page 1, line 13, insert:

Section 1. Subsection (2) of section 316.006, Florida Statutes, is amended to read:

316.006 Jurisdiction.—Jurisdiction to control traffic is vested as follows:

(2) MUNICIPALITIES.—

(a) Chartered municipalities shall have original jurisdiction over all streets and highways located within their boundaries, except state roads, and may place and maintain such traffic control devices which conform to the manual and specifications of the Department of Transportation upon all streets and highways under their original jurisdiction as they shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic.

(b) A municipality may exercise jurisdiction over any private road or roads, or over any limited access road or roads owned or controlled by a special district, located within its boundaries if the municipality and party or parties owning or controlling such road or roads provide, by

written agreement approved by the governing body of the municipality, for municipal traffic control jurisdiction over the road or roads encompassed by such agreement. Pursuant thereto:

1. Provision for reimbursement for actual costs of traffic control and enforcement and for liability insurance and indemnification by the party or parties, and such other terms as are mutually agreeable, may be included in such an agreement.

2. The exercise of jurisdiction provided for herein shall be in addition to jurisdictional authority presently exercised by municipalities under law, and nothing in this paragraph shall be construed to limit or remove any such jurisdictional authority. Such jurisdiction includes regulation of access to such road or roads by security devices or personnel.

3. Any such agreement may provide for the installation of multiparty stop signs by the parties controlling the roads covered by the agreement if a determination is made by such parties that the signage will enhance traffic safety. Multiparty stop signs must conform to the manual and specifications of the Department of Transportation; however, minimum traffic volumes may not be required for the installation of such signage. Enforcement for the signs shall be as provided in s. 316.123.

(c) Notwithstanding any other provision of law to the contrary, a municipality may, by interlocal agreement with a county, agree to transfer traffic regulatory authority over areas within the municipality to the county.

This subsection shall not limit those counties which have the charter powers to provide and regulate arterial, toll, and other roads, bridges, tunnels, and related facilities from the proper exercise of those powers by the placement and maintenance of traffic control devices which conform to the manual and specifications of the Department of Transportation on streets and highways located within municipal boundaries.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to transportation access; amending s. 316.006, F.S.; providing that a municipality may, by interlocal agreement with a county, agree to transfer traffic regulatory authority over areas within the municipality to the county;

Pursuant to Rule 4.19, **CS for SB 1184** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Constantine—

SB 2614—A bill to be entitled An act relating to university campus planning; amending s. 1013.30, F.S.; requiring each university board of trustees to maintain a copy of the campus master plan on the university's website and provide for electronic copies of its draft master plan; requiring that the university hold an informal public information session before the required public hearings are held on the draft master plan; requiring that the public hearings be held at specified times; limiting the issues that an individual may raise challenging a campus master plan; authorizing the university to execute a campus development agreement during the pendency of a challenge; providing for an evidentiary hearing to be held by the state land planning agency if a challenge to the master plan is not resolved; specifying the evidentiary procedures to be used in such hearing; providing for attorney's fees in any dispute submitted to the state land planning agency or the Administration Commission in which the pleading or motion was made for an improper purpose or for economic advantage; requiring that each university board of trustees rather than the State Board of Education adopt rules to administer the procedures for preparing and adopting the campus master plan; providing an effective date.

—was read the second time by title.

Amendments were considered and failed and amendments were considered and adopted to conform **SB 2614** to **HB 517**.

Pending further consideration of **SB 2614** as amended, on motion by Senator Constantine, by two-thirds vote **HB 517** was withdrawn from the Committees on Community Affairs; and Education.

On motion by Senator Constantine—

HB 517—A bill to be entitled An act relating to university campus planning; amending s. 1013.30, F.S.; defining terms; requiring each university board of trustees to maintain a copy of the campus master plan on the university's website and provide for electronic copies of its draft master plan; providing duties of the Board of Governors; requiring that the university hold an informal public information session before the required public hearings are held on the draft master plan; requiring that the public hearings be held at specified times; limiting the issues that an individual may raise challenging a campus master plan; authorizing the university to execute a campus development agreement during the pendency of a challenge; providing for an evidentiary hearing to be held by the Division of Administrative Hearings if a challenge to the master plan is not resolved; specifying the evidentiary procedures to be used in such hearing; providing for attorney's fees in any dispute submitted to the state land planning agency or the Administration Commission in which the pleading or motion was made for an improper purpose or for economic advantage; revising procedures to resolve disputes between the university board of trustees and the host local government; requiring that Board of Governors rather than the State Board of Education adopt rules to administer the procedures for preparing and adopting the campus master plan; providing an effective date.

—a companion measure, was substituted for **SB 2614** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 517** was placed on the calendar of Bills on Third Reading.

The Senate resumed consideration of—

CS for CS for SB 2086—A bill to be entitled An act relating to elections; amending s. 97.012, F.S.; exempting certain voter-education activities from requirements for competitive solicitation; authorizing the Secretary of State to investigate voter fraud; authorizing the Department of State to adopt rules; amending s. 97.021, F.S.; defining the term "marksense ballots"; defining the terms "early voting area," "early voting site," and "third-party voter registration organization"; creating s. 97.029, F.S.; providing for attorney's fees and costs in any action for injunctive relief or an action challenging an election law or voter-registration law; requiring an itemized affidavit; providing for review of an award of attorney's fees and costs; providing a limitation on the amount awarded; amending s. 97.051, F.S.; revising the oath required upon registering to vote; amending s. 97.052, F.S.; revising the contents of the uniform statewide voter registration application; amending s. 97.053, F.S.; revising provisions governing the acceptance of voter registration applications by the supervisor of elections; requiring that an applicant complete a registration application before the date of book closing in order to be eligible to vote in that election; revising the information required on the registration application; amending s. 97.055, F.S.; limiting the updates that may be made to registration information following book closing; creating s. 97.0575, F.S.; providing requirements for third-party voter registration organizations that collect voter-registration applications; providing fines for failure to deliver applications as required; authorizing the Division of Elections to adopt rules to administer provisions governing third-party voter registration organizations; amending s. 97.071, F.S.; specifying the information to be included on the registration identification card; amending s. 98.045, F.S.; deleting a cross-reference; amending s. 98.077, F.S.; revising the procedures for updating a voter signature used to verify an absentee ballot or provisional ballot; amending s. 99.061, F.S.; providing for qualifying for nomination or election by the petition process; requiring the filing of statements of financial interest; requiring that a qualifying officer accept certain qualifying papers filed before the qualifying period; amending s. 99.063, F.S.; providing filing requirements for public officers; amending s. 99.092, F.S., relating to qualifying fees; clarifying provisions governing qualifying for nomination or election by the petition process to conform to changes made by the act; amending s. 99.095, F.S.; revising the requirements for qualifying as a candidate by a petition process in lieu of paying a qualifying fee and party assessment; providing requirements for submitting petitions and certifications; requiring that the division or supervisor of elections, as applicable, determine whether the required number of signatures has been obtained; amending s. 99.0955, F.S.; providing procedures for a candidate having no party affiliation to qualify by the petition process; amending s. 99.096, F.S.; revising the procedures for a minor political party to submit nominated candidates to be

on the general election ballot; providing for candidates to qualify by the petition process; amending s. 99.09651, F.S., relating to signature requirements for ballot position; conforming provisions to changes made by the act; amending s. 100.011, F.S.; requiring that an elector in line at the time the polls close be allowed to vote; amending s. 100.101, F.S.; revising the circumstances under which a special election or primary is held; amending s. 100.111, F.S.; revising requirements for filling a vacancy in a nomination; requiring that ballots cast for a former nominee be counted for the person designated to replace the nominee under certain circumstances; amending s. 100.141, F.S., relating to the notice of a special election; conforming provisions to changes made by the act; amending s. 101.031, F.S.; revising the Voter's Bill of Rights to authorize a provisional ballot if a person's identity is in question; amending s. 101.043, F.S.; revising the procedures for a voter to provide identification when voting; amending s. 101.048, F.S.; providing for certain additional voters to cast provisional ballots; providing requirements for presenting evidence in support of a person's right to vote; requiring that the county canvassing board count such a ballot unless it determines by a preponderance of the evidence that the person was not entitled to vote; requiring that a person casting a provisional ballot be informed of certain rights; amending s. 101.049, F.S.; providing requirements for ballots for persons with disabilities; amending s. 101.051, F.S.; prohibiting certain solicitations to provide assistance to an elector; providing a penalty; authorizing an elector to request that a person other than an election official provide him or her with assistance in voting; providing for the form of the oath to be signed; amending s. 101.111, F.S.; revising the requirements for challenging an elector's right to vote; providing a penalty for filing a frivolous challenge; amending s. 101.131, F.S.; revising requirements for poll watchers; authorizing certain political committees to have poll watchers; prohibiting a poll watcher from interacting with a voter; providing for poll watchers at early voting areas; amending s. 101.151, F.S.; providing requirements for marksense ballots; amending s. 101.171, F.S.; requiring that a copy of a proposed constitutional amendment be available at voting locations; amending s. 101.294, F.S.; prohibiting a vendor of voting equipment from providing systems, components, or system upgrades to a local governing body or supervisor of elections which have not been certified by the Division of Elections; requiring that the vendor provide sworn certification of such equipment; amending s. 101.295, F.S.; providing a penalty for providing voting equipment in violation of ch. 101, F.S.; amending s. 101.49, F.S.; revising the procedures for verifying an elector's signature; amending s. 101.51, F.S.; requiring that an elector occupy a voting booth alone; amending s. 101.5606, F.S., relating to requirements for approval of voting systems, to conform; amending s. 101.5608, F.S., relating to voting by electronic or electromechanical methods, to conform; amending s. 101.5612, F.S.; providing requirements for testing voting equipment; amending s. 101.5614, F.S.; correcting a cross-reference; amending s. 101.572, F.S.; requiring that the supervisor of elections notify the candidates if ballots are examined before the end of the contest; amending s. 101.58, F.S.; authorizing employees of the department to have access to the premises, records, equipment, and staff of the supervisors of elections; amending s. 101.595, F.S.; requiring that certain overvotes and undervotes be reported to the department; amending s. 101.6103, F.S.; authorizing the canvassing board to begin canvassing before the election; prohibiting the release of results before election day; providing a penalty for any early release of results; requiring that a mail ballot that otherwise satisfies the requirements of law for mail ballots be counted even if the elector dies after mailing the ballot but before election day if certain conditions are met; amending s. 101.62, F.S.; revising the requirements for mailing absentee ballots to voters; amending s. 101.64, F.S.; providing for an oath to be provided to persons voting absentee under the Uniformed and Overseas Citizens Absentee Voting Act; amending s. 101.657, F.S.; revising requirements relating to early voting locations; revising the deadline to end early voting and the times for opening and closing the early voting sites each day; providing for uniformity of county early voting sites; requiring any person in line at the closing of an early voting site to be allowed to vote; providing for early voting in municipal and special district elections; requiring supervisors to provide certain information in electronic format to the Division of Elections; requiring that an early voting ballot that otherwise satisfies the requirements of law for early voting ballots be counted even if the elector dies on or before election day; amending s. 101.663, F.S.; providing for certain persons to vote absentee after moving to another state; amending s. 101.68, F.S.; prohibiting changing a voter's certificate after the absentee ballot is received by the supervisor; providing that electors who die on or before election day and have cast an absentee ballot shall remain on the voter registration books until the election is certified; providing that the ballot of an elector who casts an absentee ballot shall be counted even if the elector dies on or

before election day if certain conditions are met; amending s. 101.69, F.S.; prohibiting a voter from voting another ballot after casting an absentee ballot; providing for a provisional ballot under certain circumstances; amending s. 101.6923, F.S.; providing for the form of the printed instructions on an absentee ballot; amending s. 101.694, F.S.; providing requirements for absentee envelopes printed for voters voting under the Uniformed and Overseas Citizens Absentee Voting Act; amending s. 101.697, F.S.; requiring the Department of State to determine whether secure electronic ballots may be provided for overseas voters; requiring that the department adopt rules for accepting overseas ballots; amending s. 102.012, F.S.; requiring the supervisor of elections to appoint an election board before any election; providing duties of the board; amending s. 102.014, F.S.; requiring that the Division of Elections develop a uniform training curriculum for poll workers; amending s. 102.031, F.S.; providing requirements for maintaining order at early voting areas; requiring the designation of a no-solicitation zone; prohibiting photography in a polling room or early voting area; amending s. 102.071, F.S.; revising requirements for tabulating votes; amending s. 102.111, F.S.; providing for corrections to be made to the official election returns; amending s. 102.112, F.S.; requiring that a return contain a certification by the canvassing board; authorizing the Department of State to correct typographical errors; amending s. 102.141, F.S.; revising requirements for the canvassing boards in submitting returns to the department; providing requirements for the report filed by the canvassing board; requiring the department to adopt rules for filing results and statistical information; amending s. 102.166, F.S.; revising the circumstances under which a manual recount may be ordered; amending s. 102.168, F.S.; requiring that complaints be filed with the board responsible for certifying the election results; specifying the parties to an action who may contest an election or nomination; amending s. 103.021, F.S.; providing for nomination of presidential electors by the state executive committee of each political party; defining the term "national party" for purposes of nominating a candidate for President and Vice President of the United States; amending ss. 103.051 and 103.061, F.S.; specifying duties of the presidential electors; amending s. 103.121, F.S.; revising powers and duties of executive committees to conform to changes made by the act; amending s. 105.031, F.S.; providing for public officers to file a statement of financial interests at the time of qualifying; requiring that a filing officer accept certain qualifying papers filed before the qualifying period; amending s. 105.035, F.S.; revising procedures for qualifying for certain judicial offices and the office of school board member; prohibiting a candidate from obtaining signatures until appointing a campaign treasurer and designating a campaign depository; revising the requirements for the supervisor of elections with respect to certifying signatures; creating s. 106.022, F.S.; requiring that a political committee, committee of continuous existence, or electioneering communications entity maintain a registered office and registered agent; providing requirements for the statement of appointment; amending s. 106.24, F.S.; clarifying the duties of the Secretary of State; amending s. 106.141, F.S., relating to the disposition of surplus funds; conforming provisions to changes made by the act; transferring and renumbering s. 98.122, F.S., relating to the use of closed captioning and descriptive narrative in television broadcasts; amending s. 106.22, F.S.; eliminating certain duties of the Division of Elections with respect to reports to the Legislature and preliminary investigations; amending s. 16.56, F.S.; authorizing the Office of Statewide Prosecution to investigate and prosecute crimes involving voter registration, voting, or certain petition activities; amending s. 119.07, F.S.; clarifying requirements of the supervisor of elections with respect to notifying candidates of the inspection of ballots; amending s. 145.09, F.S.; requiring that the Department of State adopt rules establishing certification requirements for supervisors of elections; creating s. 104.0615, F.S.; providing a short title; prohibiting a person from using or threatening to use force, violence, or intimidation to induce or compel an individual to vote or refrain from voting, to refrain from registering to vote, or to refrain from acting as an election official or poll watcher; prohibiting a person from knowingly using false information to challenge an individual's right to vote, to induce an individual to refrain from registering to vote, or to induce or attempt to induce an individual to refrain from acting as an election official or poll watcher; prohibiting a person from knowingly destroying, mutilating, or defacing a voter registration form or election ballot or obstructing or delaying the delivery of a voter registration form or election ballot; providing criminal penalties; repealing ss. 98.095, 98.0979, 98.181, 98.481, 101.253, 101.635, 102.061, 106.085, and 106.144, F.S., relating to inspections of county registers and the voter database, indexes and records, challenges to elections, the printing and distribution of ballots, duties of the election board, expenditures, and endorsements or opposition by certain groups; providing for severability; providing effective dates.

—which was previously considered and amended this day. Pending **Amendment 4 (463178)** by Senator Hill was adopted.

MOTION

On motion by Senator Posey, the rules were waived to allow the following amendments to be considered:

Senator Posey moved the following amendments which were adopted:

Amendment 5 (245580)—On page 29, lines 18-21, delete those lines and insert: *later than the start of the canvassing of absentee ballots by the canvassing board. The signature on file at the start of the canvass of the absentee ballots is the signature that shall be used in verifying the signature on the absentee and provisional ballot certificates.*

Amendment 6 (954236)(with title amendment)—On page 133, between lines 2 and 3, insert:

Section 69. Subsection (6) of section 106.08, Florida Statutes, is amended to read:

106.08 Contributions; limitations on.—

(6) A political party may not accept any contribution which has been specifically designated for the partial or exclusive use of a particular candidate. Any contribution so designated must be returned to the contributor and may not be used or expended by or on behalf of the candidate. *Also, a political party may not accept any in-kind contribution that fails to provide a direct benefit to the political party. A "direct benefit" includes, but is not limited to, fundraising or furthering the objectives of the political party.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 9, line 30, after "appointment;" insert: prohibiting political parties from accepting certain in-kind contributions;

Amendment 7 (445298)—On page 49, line 14 through page 51, line 22, delete those lines and insert: *a party to have a vacancy in nomination which leaves no candidate for an office from such party, the Governor shall, after conferring with the Secretary of State, call a special primary election and, if necessary, a second special primary election to select for such office a nominee of such political party. The dates on which candidates may qualify for such special primary election shall be fixed by the Department of State, and the candidates shall qualify no later than noon of the last day so fixed. The filing of campaign expense statements by candidates in special primaries shall not be later than such dates as shall be fixed by the Department of State. In fixing such dates, the Department of State shall take into consideration and be governed by the practical time limitations. The qualifying fees and party assessment of such candidates as may qualify shall be the same as collected for the same office at the last previous primary for that office. Each county canvassing board shall make as speedy a return of the results of such primaries as time will permit, and the Elections Canvassing Commission shall likewise make as speedy a canvass and declaration of the nominees as time will permit.*

(b) ~~If the vacancy in nomination occurs later than September 15, or if the vacancy in nomination occurs with respect to a candidate of a minor political party which has obtained a position on the ballot, no special primary election shall be held and the Department of State shall notify the chair of the appropriate state, district, or county political party executive committee of such party; and, within 5 7 days, the chair shall call a meeting of his or her executive committee to consider designation of a nominee to fill the vacancy. The name of any person so designated shall be submitted to the Department of State within 7 14 days after of notice to the chair in order that the person designated may have his or her name printed or otherwise placed on the ballot of the ensuing general election, but in no event shall the supervisor of elections be required to place on a ballot a name submitted less than 21 days prior to the election. If the name of the new nominee is submitted after the certification of results of the preceding primary election, however, the ballots shall not be changed and vacancy occurs less than 21 days prior to the election, the person designated by the political party will replace the former party nominee even though the former party nominee's name will appear be on the ballot. Any ballots cast for the former party nominee will be counted for the person designated by the political party to replace the~~

former party nominee. If there is no opposition to the party nominee, the person designated by the political party to replace the former party nominee will be elected to office at the general election. For purposes of this paragraph, the term "district political party executive committee" means the members of the state executive committee of a political party from those counties comprising the area involving a district office.

(b)(e) When, under the circumstances set forth in the preceding paragraph, vacancies in nomination are required to be filled by committee nominations, such vacancies shall be filled by party rule. In any instance in which a nominee is selected by a committee to fill a vacancy in nomination, such nominee shall pay the same filing fee and take the same oath as the nominee would have taken had he or she regularly qualified for election to such office.

(c)(d) Any person who, at the close of qualifying as prescribed in ss. 99.061 and 105.031, was qualified for nomination or election to or retention in a public office to be filled at the ensuing general election is prohibited from qualifying as a candidate to fill a vacancy in nomination for any other office to be filled at that general election, even if such person has withdrawn or been eliminated as a candidate for the original office sought. However, this paragraph does not apply to a candidate for the office of Lieutenant Governor who applies to fill a vacancy in nomination for the office of Governor on the same ticket or to a person who has withdrawn or been eliminated as a candidate and who is subsequently designated as a candidate for Lieutenant Governor under s. 99.063.

Amendment 8 (324706)(with title amendment)—On page 86, lines 22-30, delete those lines and insert:

(d)(b) Early voting shall begin on the 15th day before an election and end on the 2nd day before an election. For purposes of a special election held pursuant to s. 100.101, early voting shall begin on the 8th day before an election and end on the 2nd day before an election. Early voting shall be provided for ~~at least 8 hours per weekday and 8 hours in the aggregate each weekend at each site during the applicable periods. Early voting sites shall open no sooner than 7 a.m. and close no later than 7 p.m. on each applicable day during the applicable periods. Early voting shall also be provided for 8 hours in the aggregate for each weekend during the applicable periods.~~

And the title is amended as follows:

On page 6, delete line 22 and insert: the times to begin and end early voting and the times

Amendment 9 (283558)—On page 81, lines 25 and 26, delete those lines and insert: omitted. Except as provided in ss. 99.063(4) and 100.371(6), the advance absentee ballot for the general

On motion by Senator Posey, further consideration of **CS for CS for SB 2086** as amended was deferred.

RECESS

On motion by Senator Pruitt, the Senate recessed at 12:49 p.m. to reconvene at 1:34 p.m. or upon call of the President.

AFTERNOON SESSION

The Senate was called to order by the President at 2:03 p.m. A quorum present—40:

Mr. President	Crist	Lawson
Alexander	Dawson	Lynn
Argenziano	Diaz de la Portilla	Margolis
Aronberg	Dockery	Miller
Atwater	Fasano	Peaden
Baker	Garcia	Posey
Bennett	Geller	Pruitt
Bullard	Haridopolos	Rich
Campbell	Hill	Saunders
Carlton	Jones	Sebesta
Clary	King	Siplin
Constantine	Klein	Smith

Villalobos
Webster

Wilson

Wise

SPECIAL ORDER CALENDAR, continued

On motion by Senator Klein—

SB 1820—A bill to be entitled An act relating to golf cart regulations; amending s. 316.212, F.S.; granting local jurisdictions the authority to enact ordinances governing the use of golf carts which are more restrictive than state law; amending s. 316.2126, F.S.; requiring that the use of golf carts upon any state, county, or municipal road located within a local jurisdiction be in compliance with local ordinances governing the use of golf carts; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 1820** was placed on the calendar of Bills on Third Reading.

Consideration of **SB 870**, **CS for CS for SB 2480** and **CS for CS for SB 1660** was deferred.

On motion by Senator Wise—

SB 1746—A bill to be entitled An act relating to the Florida Department of Law Enforcement; amending s. 943.61, F.S.; revising the powers and duties of the Capitol Police; amending s. 943.611, F.S.; revising duties of the director of the Capitol Police; amending s. 943.62, F.S.; revising provisions relating to investigations by the Capitol Police; amending s. 943.64, F.S.; revising provisions relating to designation of other law enforcement officers as ex officio agents of the Capitol Police; amending s. 943.68, F.S.; revising provisions relating to transportation and protective services of the Capitol Police; amending s. 316.640, F.S.; revising provisions relating to enforcement of traffic laws; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 1746** to **HB 345**.

Pending further consideration of **SB 1746** as amended, on motion by Senator Wise, by two-thirds vote **HB 345** was withdrawn from the Committees on Criminal Justice; and Governmental Oversight and Productivity.

On motion by Senator Wise—

HB 345—A bill to be entitled An act relating to the Florida Department of Law Enforcement; amending s. 943.61, F.S.; revising the powers and duties of the Capitol Police; amending s. 943.611, F.S.; revising duties of the director of the Capitol Police; amending s. 943.62, F.S.; revising provisions relating to investigations by the Capitol Police; amending s. 943.64, F.S.; revising provisions relating to designation of other law enforcement officers as ex officio agents of the Capitol Police; amending s. 943.68, F.S.; revising provisions relating to transportation and protective services of the Capitol Police; amending s. 316.640, F.S.; revising provisions relating to enforcement of traffic laws; amending s. 943.681, F.S.; revising provisions relating to the safety and security needs of the Historic Capitol and the R.A. Gray Building; providing an effective date.

—a companion measure, was substituted for **SB 1746** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 345** was placed on the calendar of Bills on Third Reading.

On motion by Senator Argenziano—

CS for SB 1830—A bill to be entitled An act relating to home inspection services; creating s. 501.935, F.S.; providing definitions; providing requirements for practice; providing exemptions; providing prohibited

acts and penalties; requiring liability insurance; exempting from duty to provide repair cost estimates; providing limitations; providing for enforcement of violations; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 1830** to **HB 315**.

Pending further consideration of **CS for SB 1830** as amended, on motion by Senator Argenziano, by two-thirds vote **HB 315** was withdrawn from the Committee on Regulated Industries.

On motion by Senator Argenziano—

HB 315—A bill to be entitled An act relating to home inspection services; creating s. 501.935, F.S.; providing definitions; providing requirements for practice; providing exemptions; providing prohibited acts and penalties; requiring liability insurance; exempting from duty to provide repair cost estimates; providing limitations; providing for enforcement of violations; providing an effective date.

—a companion measure, was substituted for **CS for SB 1830** as amended and read the second time by title.

Senator Argenziano moved the following amendments which were adopted:

Amendment 1 (183334)—On line 38, delete “80” and insert: 60

Amendment 2 (113548)(with title amendment)—Between lines 144 and 145, insert:

(9) *GRANDFATHERING.*—*Until January 1, 2007, notwithstanding any other provision of this section, a person who meets the following criteria may work as a home inspector:*

(a) *Has successfully completed high school or its equivalent or has been in the business of home inspection services for at least 5 years;*

(b) *Has been engaged in the practice of home inspection for compensation for at least 3 years prior to January 1, 2006; and*

(c) *Has performed not fewer than 250 home inspections for compensation.*

And the title is amended as follows:

On line 8, after the semicolon (;) insert: authorizing a person who meets certain conditions to work as a home inspector for a limited time, notwithstanding the act’s other provisions;

Senator Argenziano moved the following amendment:

Amendment 3 (331680)(with title amendment)—Delete line 145 and insert:

Section 2. Effective October 1, 2005, section 489.1134, Florida Statutes, is created to read:

489.1134 Mold remediation certification.—

(1)(a) *In addition to the certification or registration required to engage in business as a contractor under this part, any contractor who wishes to engage in business as a contractor with a focus or emphasis on mold or mold remediation that is not incidental to the scope of his or her license shall take the courses or the number of course hours determined by the board. Such courses or course hours may count as part of the contractor’s continuing education requirement and shall be given by an instructional facility or teaching entity that has been approved by the board. Upon successful completion of the course, courses, or course hours, the instructional facility or teaching entity that has been approved by the board shall report such completion to the department and issue to the taker of the course a certificate of completion, which shall be available for inspection by any entity or person seeking to have the contractor engage in business as a contractor with a focus or emphasis on mold or mold remediation that is not incidental to the license of the contractor.*

(b) *Any other natural person who is employed by a licensed contractor to provide work on mold or mold remediation shall, as a prerequisite to*

his or her authorization to provide such service, take a course approved by the board.

(c) It is the responsibility of the contractor licensed under this part to ensure that members of his or her workforce who are engaging in business as a contractor with a focus or emphasis on mold or mold remediation that is not incidental to the scope of the contractor's license are in compliance with this section, and such contractor is subject to discipline under s. 489.129 for violation of this section.

(d) Training programs in mold remediation shall be reviewed annually by the board to ensure that programs have been provided equitably across the state.

(e) Periodically, the board shall review training programs in mold remediation for quality in content and instruction. The board shall also respond to complaints regarding approved programs.

(2)(a) A person qualified under paragraph (1)(a) must be present on any job site at which a person is engaging in business as a contractor with a focus or emphasis on mold or mold remediation that is not incidental to the scope of his or her license.

(b) It is the responsibility of the licensed contractor to ensure compliance with paragraph (a), and such contractor is subject to discipline under s. 489.129 for violation of this subsection.

(3) No contractor shall hold himself or herself out as emphasizing in mold or mold remediation unless the contractor is in compliance with this section.

(4) The term "mold" means an organism of the class fungi that causes disintegration of organic matter and produces spores and includes any spores, hyphae, and mycotoxins produced by mold. The term "mold remediation" means the business as a contractor related to mold or mold-contaminated matter.

Section 3. Effective October 1, 2005, section 501.933, Florida Statutes, is created to read:

501.933 Mold assessors; requirements; exemptions; prohibited acts and penalties; bond and insurance; limitations and enforcement.—

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

(a) "Mold" means an organism of the class fungi that causes disintegration of organic matter and produces spores, and includes any spores, hyphae, and mycotoxins produced by mold.

(b) "Mold assessment" means:

1. An inspection, investigation, or survey of a dwelling or other structure to provide the owner or occupant with information regarding the presence, identification, or evaluation of mold;

2. The development of a mold-management plan or remediation protocol; or

3. The collection or analysis of a mold sample.

(c) "Mold assessor" means any person that performs or directly supervises a mold assessment.

(2) **REQUIREMENTS FOR PRACTICE.**—

(a) A person shall not work as a mold assessor unless he or she has evidence of, or works under the direct supervision of a person who has evidence of, a certification from either:

1. A nonprofit organization with a focus on indoor air quality or industrial hygiene that meets each of the following criteria:

a. Requires that a person may not obtain certification unless the person has at least a 2-year degree in a scientific or building science field and 3 years of documented experience from a qualified mold assessor, or requires a 4-year degree in a scientific or building science field.

b. Requires the person to pass an examination testing knowledge related to mold and mold assessment; or

2. A community college or university that offers mold assessment training or education.

(b) A business entity may not provide or offer to provide mold assessment services unless the business entity satisfies all of the requirements of this section.

(3) **EXEMPTIONS.**—The following persons are not required to comply with this section with regard to any mold assessment:

(a) A residential property owner who performs mold assessment on his or her own property.

(b) An owner or tenant, or a managing agent or employee of an owner or tenant, who performs mold assessment on property owned or leased by the owner or tenant. This exemption does not apply if the managing agent or employee engages in the business of performing mold assessment for the public.

(c) An employee of a licensee who performs mold assessment while directly supervised by the mold assessor.

(d) Individuals or business organizations licensed under chapter 471, part I of chapter 481, chapter 482, or chapter 489, or acting on behalf of an insurer under part VI of chapter 626, or individuals in the manufactured housing industry who are licensed under chapter 320, that are not specifically engaged in mold assessment, but that are acting within the scope of their respective licenses.

(e) An authorized employee of the United States, this state, or any municipality, county, or other political subdivision, or public or private school, who meets the requirements of subsection (2) and who is conducting mold assessment within the scope of that employment, as long as the employee does not hold out for hire or otherwise engage in mold assessment.

(4) **PROHIBITED ACTS; PENALTIES.**—

(a) A mold assessor, a company that employs a mold assessor, or a company that is controlled by a company that also has a financial interest in a company employing a mold assessor may not:

1. Perform or offer to perform any mold assessment without complying with the requirements of this section.

2. Perform or offer to perform any mold remediation to a structure on which the mold assessor or the mold assessor's company provided a mold assessment within the last 12 months.

3. Inspect for a fee any property in which the assessor or the assessor's company has any financial or transfer interest.

4. Accept any compensation, inducement, or reward from a mold remediator or mold remediator's company for the referral of any business to the mold remediator or the mold remediator's company.

5. Offer any compensation, inducement, or reward to a mold remediator or mold remediator's company for the referral of any business from the mold remediator or the mold remediator's company.

6. Accept an engagement to make an omission of the assessment or conduct an assessment in which the assessment itself, or the fee payable for the assessment, is contingent upon the conclusions of the assessment.

(b) Any person who violates any provision of this subsection commits:

1. A misdemeanor of the second degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.

2. A misdemeanor of the first degree for a second violation, punishable as provided in s. 775.082 or s. 775.083.

3. A felony of the third degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) **INSURANCE.**—A mold assessor must maintain a mold-specific insurance policy in an amount of not less than \$1 million.

(6) **REPAIR COST ESTIMATES.**—Mold assessors are not required to provide estimates related to the cost of repair of an assessed property.

(7) *STATUTE OF LIMITATIONS.*—Chapter 95 governs the time at which an action to enforce an obligation, duty, or right arising under this section must be commenced.

(8) *ENFORCEMENT OF VIOLATIONS.*—Any violation of this section constitutes a deceptive and unfair trade practice, punishable as provided in part II of this chapter.

Section 4. Effective October 1, 2005, section 501.934, Florida Statutes, is created to read:

501.934 Noncontracting mold remediators; requirements; exemptions; prohibited acts and penalties; bond and insurance; limitations and enforcement.—

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

(a) “Mold” means an organism of the class fungi that causes disintegration of organic matter and produces spores, and includes any spores, hyphae, and mycotoxins produced by mold.

(b) “Noncontracting mold remediation” means the removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, of mold or mold-contaminated matter that was not purposely grown at that location; however, such removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, may not be work that requires a license under chapter 489 unless performed by a person who is licensed under that chapter or the work complies with that chapter.

(c) “Noncontracting mold remediator” means any person that performs mold remediation. A noncontracting mold remediator may not perform any work that requires a license under chapter 489 unless the noncontracting mold remediator is also licensed under that chapter or complies with that chapter.

(2) *REQUIREMENTS FOR PRACTICE.*—

(a) A person shall not work as a noncontracting mold remediator unless he or she has evidence of, or works under the direct supervision of a person who has evidence of, a certification from either:

1. A nonprofit organization with a focus on mold remediation that meets each of the following criteria:

a. Requires that a person has at least a high school diploma and at least 2 years’ experience in a field related to mold remediation;

b. Requires that a person has completed training related to mold and mold remediation; and

c. Requires the person to pass an examination testing knowledge related to mold and mold remediation; or

2. A community college or university that offers mold remediation training or education.

(b) A business entity may not provide or offer to provide mold remediation services unless the business entity satisfies all of the requirements of this section.

(3) *EXEMPTIONS.*—The following persons are not required to comply with this section with regard to any noncontracting mold remediation:

(a) A residential property owner who performs noncontracting mold remediation on his or her own property.

(b) An owner or tenant, or a managing agent or employee of an owner or tenant, who performs noncontracting mold remediation on property owned or leased by the owner or tenant so long as such remediation is within the routine maintenance of a building structure. This exemption does not apply if the managing agent or employee engages in the business of performing noncontracting mold remediation for the public.

(c) An employee of a licensee who performs noncontracting mold remediation while directly supervised by the noncontracting mold remediator.

(d) Individuals or business organizations licensed under chapter 471, part I of chapter 481, chapter 482, or chapter 489, or acting on behalf of

an insurer under part VI of chapter 626, or individuals in the manufactured housing industry who are licensed under chapter 320, that are not specifically engaged in mold remediation, but that are acting within the scope of their respective licenses.

(e) An authorized employee of the United States, this state, or any municipality, county, or other political subdivision, or public or private school, who meets the requirements of subsection (2) and who is conducting mold remediation within the scope of that employment, as long as the employee does not hold out for hire or otherwise engage in mold remediation.

(4) *PROHIBITED ACTS; PENALTIES.*—

(a) A noncontracting mold remediator, a company that employs a noncontracting mold remediator, or a company that is controlled by a company that also has a financial interest in a company employing a noncontracting mold remediator may not:

1. Perform or offer to perform any mold remediation without complying with the requirements of this section.

2. Perform or offer to perform any mold assessment as defined in s. 501.933.

3. Remediate for a fee any property in which the noncontracting mold remediator or the noncontracting mold remediator’s company has any financial or transfer interest.

4. Accept any compensation, inducement, or reward from a mold assessor or mold assessor’s company for the referral of any business from the mold assessor or the mold assessor’s company.

5. Offer any compensation, inducement, or reward to a mold assessor or mold assessor’s company for the referral of any business from the mold assessor or the mold assessor’s company.

(b) Any person who violates any provision of this subsection commits:

1. A misdemeanor of the second degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.

2. A misdemeanor of the first degree for a second violation, punishable as provided in s. 775.082 or s. 775.083.

3. A felony of the third degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) *INSURANCE.*—A noncontracting mold remediator shall maintain a general liability insurance policy with a mold insurance pollution rider in an amount of not less than \$1 million.

(6) *STATUTE OF LIMITATIONS.*—Chapter 95 governs the time at which an action to enforce an obligation, duty, or right arising under this section must be commenced.

(7) *ENFORCEMENT OF VIOLATIONS.*—Any violation of this section constitutes a deceptive and unfair trade practice, punishable as provided in part II of this chapter.

Section 5. Except as otherwise expressly provided in this act and except for this section, which shall take effect July 1, 2005, this act shall take effect January 1, 2006.

And the title is amended as follows:

Lines 2-8, delete those lines and insert: An act relating to building assessment and remediation; creating s. 501.935, F.S., relating to home inspection services; providing definitions; providing requirements for practice; providing exemptions; providing prohibited acts and penalties; requiring liability insurance; exempting from duty to provide repair cost estimates; providing limitations; providing for enforcement of violations; creating s. 489.1134, F.S.; providing educational requirements and procedural requirements for mold remediation certification; providing for discipline; requiring review of mold remediation training programs; requiring a person certified under this section to be present on certain job sites; assigning responsibility for workforce compliance; requiring compliance; providing definitions; creating s. 501.933, F.S.; providing definitions; providing requirements for practice as a mold assessor; providing exemptions; providing prohibited acts and penalties; requiring that

mold assessors maintain liability insurance; providing that mold assessors do not have a duty to provide repair cost estimates; providing limitations; providing for enforcement of violations; creating s. 501.934, F.S.; providing definitions; providing requirements for practice as a noncontracting mold remediator; providing exemptions; providing prohibited acts and penalties; requiring that noncontracting mold remediators maintain liability insurance; providing limitations; providing for enforcement of violations; providing effective dates.

MOTION

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

Senator Bennett moved the following amendment to **Amendment 3** which was adopted:

Amendment 3A (881676)(with title amendment)—On page 10, lines 20-22, delete those lines.

And the title is amended as follows:

On page 12, lines 4 and 5, delete “providing for enforcement of violations;”

Amendment 3 as amended was adopted.

MOTION

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

Senator Argenziano moved the following amendment which was adopted:

Amendment 4 (192204)—On line 91, after “chapter 626” insert: *or any person performing insurance underwriting duties*

Pursuant to Rule 4.19, **HB 315** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Dockery—

CS for CS for SB 330—A bill to be entitled An act relating to notification of contamination; amending s. 376.301, F.S.; defining specified terms; creating s. 376.30702, F.S.; requiring that a person provide notice to the Division of Waste Management of the Department of Environmental Protection, the department’s district office, and the Department of Health when contamination is discovered as a result of site rehabilitation activities; providing requirements for notice; requiring notice when laboratory analytical results demonstrate that contamination exists in any medium beyond the boundaries of the property of the site rehabilitation; providing requirements for notice; requiring that the department notify the record owners of real property at which contamination has been discovered; authorizing the department to collaborate with the Department of Health to establish procedures for responding to public inquiries; providing rulemaking authority; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for CS for SB 330** to **HB 937**.

Pending further consideration of **CS for CS for SB 330** as amended, on motion by Senator Dockery, by two-thirds vote **HB 937** was withdrawn from the Committees on Environmental Preservation; and Governmental Oversight and Productivity.

On motion by Senator Dockery—

HB 937—A bill to be entitled An act relating to contamination notification; amending s. 376.301, F.S.; defining specified terms; creating s. 376.30702, F.S.; requiring notice when contamination is discovered as a result of site rehabilitation activities; providing requirements for notice; requiring notice when laboratory analytical results demonstrate that contamination exists in any medium beyond the boundaries of the property of the site rehabilitation; providing requirements for notice; providing rulemaking authority; amending ss. 287.0595 and 316.302, F.S.; conforming cross references; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 330** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 937** was placed on the calendar of Bills on Third Reading.

On motion by Senator King—

CS for CS for SB 2254—A bill to be entitled An act relating to community colleges; amending s. 1001.64, F.S.; providing that community colleges that grant baccalaureate degrees pursuant to s. 1007.33, F.S., remain under the authority of the State Board of Education with respect to specified responsibilities; providing that, subject to specified conditions, the board of trustees of such a community college is the governing board for purposes of granting baccalaureate degrees; providing powers of the boards of trustees, including the power to establish tuition and out-of-state fees; providing restrictions; requiring such boards to adopt a policy requiring teachers who teach certain upper-division courses to teach a specified minimum number of hours; amending s. 1004.65, F.S.; requiring community colleges that offer baccalaureate degrees to maintain their primary purpose and not terminate associate in arts programs because they offer baccalaureate degrees; amending s. 1007.33, F.S.; removing a requirement for review and comment by the Council for Education Policy Research and Improvement of a proposal to deliver baccalaureate degree programs; providing for the State Board of Education to adopt rules with respect to the articulation of specified associate degrees with specified bachelor’s degrees; providing requirements for such rules; requiring that a formal agreement for the delivery of specified baccalaureate degree programs by a regionally accredited college or university at a community college site include certain provisions; requiring that the curriculum for the degree be developed and approved within a specified time; requiring that the degree program be implemented within a specified time; requiring that a proposal to deliver such a degree document that the community college has notified the accredited colleges and universities in the district of its intent to seek approval for delivery of the degree; allowing the colleges and universities to propose an alternative plan for providing the degree; amending s. 1009.23, F.S.; providing guidelines and restrictions for setting tuition and out-of-state fees for upper-division courses; requiring the State Board of Education, annually by a specified date, to adopt a resident fee schedule for baccalaureate degree programs offered by community colleges; amending s. 1011.83, F.S.; providing requirements for funding nonrecurring and recurring costs associated with such programs; limiting per-student funding to a specified percentage of costs associated with baccalaureate degree programs offered in state universities; requiring community colleges to maintain a distinction in reporting and funding between baccalaureate degree programs approved under s. 1007.33, F.S., and those offered under concurrent-use partnerships; amending s. 1013.60, F.S.; allowing community college boards of trustees to request funding for all authorized programs; requiring that enrollment in baccalaureate degree programs be computed into the survey of need for facilities; approving a transfer of an endowment from the Appleton Cultural Center, Inc., to the Central Florida Community College Foundation; providing restrictions on the management of the endowment; releasing the foundation from certain trust agreement and statutory requirements; providing an effective date.

—was read the second time by title.

MOTION

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

Senator Smith moved the following amendment which was adopted:

Amendment 1 (475426)(with title amendment)—On page 12, between lines 28 and 29, insert:

Section 8. Subsection (12) of section 1009.23, Florida Statutes, is amended to read:

1009.23 Community college student fees.—

(12) In addition to tuition, out-of-state, financial aid, capital improvement, student activity and service, and technology fees authorized in this section, each community college board of trustees is authorized

to establish fee schedules for the following user fees and fines: laboratory fees; parking fees and fines; *transportation fees*; library fees and fines; fees and fines relating to facilities and equipment use or damage; access or identification card fees; duplicating, photocopying, binding, or micro-filming fees; standardized testing fees; diploma replacement fees; transcript fees; application fees; graduation fees; and late fees related to registration and payment. Such user fees and fines shall not exceed the cost of the services provided and shall only be charged to persons receiving the service. A community college may not charge any fee except as authorized by law or rules of the State Board of Education. Parking fee revenues may be pledged by a community college board of trustees as a dedicated revenue source for the repayment of debt, including lease-purchase agreements and revenue bonds with terms not exceeding 20 years and not exceeding the useful life of the asset being financed. Community colleges shall use the services of the Division of Bond Finance of the State Board of Administration to issue any revenue bonds authorized by the provisions of this subsection. Any such bonds issued by the Division of Bond Finance shall be in compliance with the provisions of the State Bond Act. Bonds issued pursuant to the State Bond Act shall be validated in the manner established in chapter 75. The complaint for such validation shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 14, after the semicolon (;) insert: amending s. 1009.23, F.S.; authorizing each community college board of trustees to establish a transportation user fee; limiting such fee to the cost of the service provided; allowing fines to exceed the cost of services provided and to apply to persons other than those receiving specified services;

Pursuant to Rule 4.19, **CS for CS for SB 2254** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

SENATOR CAMPBELL PRESIDING

On motion by Senator Argenziano—

CS for CS for SB 1016—A bill to be entitled An act relating to construction contracting; amending s. 255.05, F.S.; making certain restrictions in bonds issued for public works projects unenforceable; amending ss. 489.129 and 489.533, F.S.; increasing an administrative fine under certain disciplinary proceeding provisions; amending s. 713.015, F.S.; revising a direct contract provision requirement; providing that failure to include such provision in such contracts limits certain lien rights under the contract; providing construction relating to validity and enforceability; preserving lien rights of certain persons; amending s. 713.02, F.S.; protecting the rights of certain persons to enforce certain contract, lien, or bond remedies or contractual obligations under certain circumstances; precluding certain defenses; amending s. 713.04, F.S.; revising certain final payment requirements; amending s. 713.08, F.S.; requiring a claim of lien to be served on an owner; amending s. 713.13, F.S.; revising provisions authorizing use of certain payment bonds to transfer certain recorded liens; specifying application of certain notice requirements to certain claims; revising time limits for serving certain required notices; amending s. 713.135, F.S.; revising certain notice of commencement and applicability of lien requirements for certain authorities issuing building permits; providing construction; amending s. 713.23, F.S.; providing that a contractor may commence an action to enforce a claim any time after a notice of nonpayment has been served; amending s. 713.24, F.S.; preserving jurisdiction in the county court over certain transfer bond claims for nonpayment; preserving certain lien rights when filing a transfer bond after commencing certain lien enforcement proceedings; amending s. 713.345, F.S.; increasing certain criminal penalties for misapplication of construction funds; amending s. 713.3471, F.S.; revising a provision requiring a lender to provide notice to a borrower when making a disbursement on a construction loan secured by residential property; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for CS for SB 1016** to **HB 113**.

Pending further consideration of **CS for CS for SB 1016** as amended, on motion by Senator Argenziano, by two-thirds vote **HB 113** was withdrawn from the Committees on Regulated Industries; Judiciary; and Governmental Oversight and Productivity.

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

HB 113—A bill to be entitled An act relating to construction contracting; amending s. 255.05, F.S.; making certain restrictions in bonds issued for public works projects unenforceable; amending s. 489.118, F.S.; postponing a date for submitting an application for a certificate as a registered contractor; amending ss. 489.129 and 489.533, F.S.; increasing an administrative fine under certain disciplinary proceeding provisions; amending s. 713.015, F.S.; revising form criteria for a direct contract provision; preserving lien and bond rights of certain persons; specifying nonapplication to certain contractors or construction professionals; amending s. 713.02, F.S.; protecting the rights of certain persons to enforce certain contract, lien, or bond remedies or contractual obligations under certain circumstances; precluding certain defenses; amending s. 713.04, F.S.; revising certain final payment requirements; amending s. 713.08, F.S.; requiring a claim of lien to be served on an owner; amending s. 713.13, F.S.; revising provisions authorizing use of certain payment bonds to transfer certain recorded liens; specifying application of certain notice requirements to certain claims; revising time limits for serving certain required notices; amending s. 713.135, F.S.; revising certain notice of commencement and applicability of lien requirements for certain authorities issuing building permits; prohibiting private providers performing inspection services from performing or approving certain inspections under certain circumstances; increasing a threshold amount for certain nonapplication; prohibiting issuing authorities or building officials from requiring recodation of a notice of commencement for certain purposes; authorizing authorities issuing building permits to accept permit applications electronically; requiring an electronic submission statement on the application; requiring provision of Internet access; amending s. 713.23, F.S.; clarifying provisions relating to payment bonds; amending s. 713.24, F.S.; providing construction to preserve county court jurisdiction over certain transfer bond claims for nonpayment; preserving certain lien rights when filing a transfer bond after commencing certain lien enforcement proceedings; amending s. 713.345, F.S.; revising criteria for certain criminal penalties for misapplication of construction funds; amending s. 713.3471, F.S.; revising a provision requiring a lender to provide notice to a property owner when making a disbursement on a construction loan secured by residential property; specifying nonapplication; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1016** as amended and read the second time by title.

MOTION

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

Senator Argenziano moved the following amendment which was adopted:

Amendment 1 (602608)(with title amendment)—On lines 375-573, delete section 10 and renumber subsequent sections.

And the title is amended as follows:

On lines 24-36, delete those lines and insert: required notices; amending s.

Pursuant to Rule 4.19, **HB 113** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Klein—

CS for CS for SB 526—A bill to be entitled An act relating to electric utility transmission; creating the Electric Utility Task Force; providing duties and membership of the task force; creating the Electric Utility Task Force Advisory Panel to advise the task force; providing for membership and duties of the panel; requiring that the task force submit a report to the Governor and the Legislature; providing that the task force

be dissolved on a specified date; providing an appropriation; providing an effective date.

—was read the second time by title.

MOTION

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

Senator Klein moved the following amendment which was adopted:

Amendment 1 (254144)(with title amendment)—On page 1, lines 16 and 17; and on page 2, line 23, delete “*Electric*” and insert: *Post Hurricane*

And the title is amended as follows:

On page 1, lines 3 and 5, delete “*Electric*” and insert: *Post Hurricane*

Pursuant to Rule 4.19, **CS for CS for SB 526** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for SB 698** was deferred.

On motion by Senator Lawson—

CS for CS for SB 1456—A bill to be entitled An act relating to paternity; permitting a petition to set aside a determination of paternity; providing a time limit for filing the petition; providing for notice of such petition; specifying contents of the petition; providing standards upon which relief shall be granted; providing remedies; providing that child support obligations shall not be suspended while a petition is pending; providing for genetic testing; providing for assessment of costs and attorney’s fees; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for CS for SB 1456** was placed on the calendar of Bills on Third Reading.

On motion by Senator Sebesta, by two-thirds vote **HB 627** was withdrawn from the Committees on Banking and Insurance; Judiciary; Governmental Oversight and Productivity; and Rules and Calendar.

On motion by Senator Sebesta—

HB 627—A bill to be entitled An act relating to public records; creating s. 516.115, F.S.; creating an exemption from public records requirements for information obtained by the Office of Financial Regulation of the Financial Services Commission in connection with active investigations and examinations under the Florida Consumer Finance Act; providing an exception; providing a definition; providing for future legislative review and repeal; providing a statement of public necessity; providing a contingent effective date.

—a companion measure, was substituted for **CS for CS for SB 698** and read the second time by title.

Pursuant to Rule 4.19, **HB 627** was placed on the calendar of Bills on Third Reading.

On motion by Senator Argenziano, by two-thirds vote **HB 1305** was withdrawn from the Committees on Governmental Oversight and Productivity; Community Affairs; Banking and Insurance; and Transportation and Economic Development Appropriations.

On motion by Senator Argenziano—

HB 1305—A bill to be entitled An act relating to the Department of State; creating s. 257.015, F.S.; providing definitions; amending s. 257.02, F.S.; increasing membership on the State Library Council; revising criteria for membership; revising provisions with respect to the selection process for members; providing for officers of the council; amending

s. 257.031, F.S.; deleting references to the State Library Council and provisions for officers of the council; providing additional responsibilities of the State Librarian; amending s. 257.12, F.S.; designating the Division of Library and Information Services as the state library administrative agency; amending s. 257.192, F.S.; correcting terminology; creating s. 257.43, F.S.; providing for the establishment of a citizen support organization to provide assistance, funding, and promotional support for the library, archives, and records management programs of the Division of Library and Information Services; providing for use of administrative services and property; requiring an annual audit; amending s. 265.284, F.S.; designating the Division of Cultural Affairs as the state arts administrative agency; deleting obsolete language; amending s. 265.2865, F.S.; deleting obsolete language; amending s. 265.606, F.S.; requiring local sponsoring organizations to submit an annual postaudit to the division under certain circumstances; amending s. 265.701, F.S.; providing contract requirements to ensure continued use as a cultural facility for a specified period following a grant award; providing for repayment of grant funds to the department under specified circumstances; amending s. 265.702, F.S.; providing contract requirements to ensure continued use as a regional cultural facility for a specified period following a grant award; providing for repayment of grant funds to the department under specified circumstances; creating s. 265.703, F.S.; providing for the establishment of a citizen support organization to provide assistance, funding, and promotional support for the cultural and arts programs of the Division of Cultural Affairs; providing for use of administrative services and property; requiring an annual audit; amending s. 267.031, F.S.; authorizing the Division of Historical Resources to establish an endowment under the Florida Historical Resources Act; removing a requirement for the establishment of historic preservation regional offices in specific locations; requiring the establishment of at least three historic preservation regional offices; creating citizen advisory boards for regional offices in lieu of citizen support organizations; providing purpose and for appointment of members of the advisory boards; amending s. 267.0612, F.S.; revising provisions with respect to service as a member of the Florida Historical Commission; amending s. 267.0617, F.S.; providing for appointment of a grant review panel chair under the Historic Preservation Grant Program; amending s. 267.0619, F.S.; providing for appointment of a grant review panel chair under the Historical Museum Grants program; amending s. 267.0731, F.S.; revising provisions with respect to nominations under the Great Floridians Program; amending s. 267.13, F.S.; providing for the adoption of rules by the Division of Historical Resources to implement provisions governing prohibited practices and penalties therefor; amending s. 267.16, F.S.; removing a duty of the Division of Historical Resources with respect to Florida Folklife Programs; amending s. 267.173, F.S.; conforming a reference; amending s. 267.174, F.S.; revising dates for the first meeting of the Discovery of Florida Quincentennial Commemoration Commission, completion of the initial draft of the master plan, and submission of the completed master plan; repealing s. 15.0913, F.S., which requires the Department of State to file all Uniform Commercial Code documents within a specified time after receipt of such documents by the Bureau of Uniform Commercial Code of the Division of Corporations; repealing s. 265.51, F.S., relating to the authority of the Department of State to make agreements to indemnify specified items against loss or damage; repealing s. 265.52, F.S., relating to items eligible for indemnity agreements of the Department of State; repealing s. 265.53, F.S., relating to application for indemnity agreement by a nonprofit agency, institution, or government in the state attempting to obtain indemnification for eligible items it proposes to borrow from a person, organization, institution, or government not in the state; repealing s. 265.54, F.S., relating to review by the Department of State of applications for indemnity agreements and limits of indemnity; repealing s. 265.55, F.S., relating to the processing by the Division of Risk Management of the Department of Financial Services of claims for losses covered by an indemnity agreement; repealing s. 265.56, F.S., relating to an annual report to the Legislature by the Department of State with respect to current and pending claims under indemnity agreements and the value of contracts entered into by the department which are outstanding at the close of the fiscal year; providing severability; providing an effective date.

—a companion measure, was substituted for **CS for SB 2152** and read the second time by title.

Pursuant to Rule 4.19, **HB 1305** was placed on the calendar of Bills on Third Reading.

On motion by Senator Sebesta—

CS for CS for CS for SB 460—A bill to be entitled An act relating to transportation; creating s. 311.22, F.S.; establishing a program to provide matching funds for dredging projects in eligible counties; requiring that funds appropriated under the program be used for certain projects; requiring that the Florida Seaport Transportation and Economic Development Council adopt rules for evaluating the dredging projects; providing criteria for the rules; providing for a project-review process by the Department of Community Affairs, the Department of Transportation, and the Office of Tourism, Trade, and Economic Development; amending s. 332.007, F.S.; authorizing the Department of Transportation to fund certain eligible aviation planning projects to be performed by not-for-profit organizations representing a majority of public airports; amending s. 322.14, F.S.; reducing the number of members of the Secure Airports for Florida's Economy (SAFE) Council; providing for the funding of the council through annual grants made by the Department of Transportation; authorizing the council to contract for administrative support; requiring the council to establish an advisory board; authorizing the council to advise the department on aviation issues; removing the Department of Community Affairs from the review of council products; eliminating the requirement that airports fund the council; abolishing the council by a specified date; amending s. 337.11, F.S.; adding written work orders to the type of documents covered by the department's contracting laws; specifying changes to surety bondholder's liability under certain circumstances; creating s. 337.195, F.S.; providing presumptions relating to liability in certain actions against the department; limiting liability, in certain circumstances, of contractors and engineers doing work for the department; amending 338.155, F.S.; providing that persons participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty are exempt from paying tolls; amending 339.175, F.S.; requiring metropolitan planning organizations to have recorded roll-votes and super-majority votes on certain plans; amending s. 339.64, F.S.; requiring the Florida Transportation Commission to include as part of its annual work program review an assessment of the department's progress on the Strategic Intermodal System; requiring an annual report to the Governor and the Legislature by a certain time period; directing the department to coordinate with federal, regional, and local entities for transportation planning that impacts military installations; requiring the Strategic Intermodal System Plan to include an assessment of the impacts of proposed projects on military installations; adding a military representative to the Governor's appointees to the Strategic Intermodal Transportation Advisory Council; deleting obsolete provisions; creating part IV of chapter 343, F.S., entitled "Northwest Florida Transportation Corridor Authority"; providing a short title; providing definitions; creating the Northwest Florida Transportation Corridor Authority encompassing Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, Franklin, and Wakulla Counties; providing for a governing body of the authority; providing for membership, organization, purposes, and powers of the authority; requiring a master plan; providing for the U.S. 98 Corridor System; prohibiting tolls on certain existing highways and other transportation facilities within the corridor; providing for procurement; providing bond financing authority for improvements; providing for bonds of the authority; providing for fiscal agents; providing that the State Board of Administration may act as fiscal agent; providing for certain financial agreements; providing for the rights and remedies of bondholders; providing for a lease-purchase agreement with the department; authorizing the authority to appoint the department as its agent for construction; providing for acquisition of lands and property; providing for cooperation with other units, boards, agencies, and individuals; providing for public-private partnerships; providing covenant of the state; providing for exemption from taxation; providing for eligibility for investments and security; providing that pledges are enforceable by bondholders; providing for complete and additional statutory authority for the department and other state agencies; amending s. 380.06, F.S., relating to developments of regional impact; deleting a provision stating criteria for determining when a change to certain airports necessitates a review; directing the Department of Transportation to select and fund a consultant to perform a study of bicycle facilities on or connected to the State Highway System; requiring the results of the study to be presented to the Governor and the Legislature; providing for management of the study by the State Pedestrian and Bicycle Coordinator; providing for inclusion of certain elements in the study; requiring the study to include an implementation plan; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for CS for CS for SB 460** to **HB 1681**.

Pending further consideration of **CS for CS for CS for SB 460** as amended, on motion by Senator Sebesta, by two-thirds vote **HB 1681** was withdrawn from the Committees on Transportation; Environmental Preservation; Governmental Oversight and Productivity; and Transportation and Economic Development Appropriations.

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

HB 1681—A bill to be entitled An act relating to transportation; creating s. 311.115, F.S.; requiring the Florida Seaport Transportation and Economic Development Council to establish a matching funds program for certain dredging projects; requiring the adoption of rules and criteria for project evaluation; requiring approved projects to be reviewed by the Department of Community Affairs, the Department of Transportation, and the Office of Tourism, Trade, and Economic Development; amending s. 332.007, F.S.; authorizing the department to fund certain eligible aviation planning projects to be performed by not-for-profit organizations representing a majority of public airports; amending s. 337.11, F.S.; providing for department contracts to use written work orders pursuant to certain contingency items or supplemental agreements; removing requirement for surety approval of supplemental agreements; limiting liability of the surety when unapproved contract changes exceed a certain amount; providing purposes for the use of written work orders; revising criteria for use of supplemental agreements in department contracts; creating s. 337.195, F.S.; specifying presumptions of proximate cause for determination of liability in certain civil actions against the department or its agents or its consultants or contractors on certain transportation facilities when death, personal injury, or property damage resulted from a motor vehicle crash within a construction zone; limiting liability under certain circumstances of a contractor who constructed or repaired a highway, road, street, or bridge for the department; limiting liability under certain circumstances of a person or entity who contracts with the department to prepare or provide engineering plans for certain transportation facility projects; amending s. 337.251, F.S.; authorizing the department to adopt rules governing the leasing of property for joint public-private development; amending s. 337.406, F.S.; providing that exceptions to prohibited uses of transportation facilities shall not apply to limited access highways; amending s. 338.155, F.S.; providing that persons participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty are exempt from paying tolls; amending s. 339.175, F.S.; requiring a metropolitan planning organization to approve certain plans and programs on a recorded roll call vote; providing that modifications of certain plans and programs require a recorded roll call vote for approval by a specified super majority; amending s. 339.55, F.S.; establishing a limit on state-funded infrastructure bank loans to the State Transportation Trust Fund; amending s. 339.61, F.S.; revising legislative intent for transportation facilities comprising the Strategic Intermodal System; adding economic development and job growth as criteria for projects; amending s. 339.62, F.S.; adding planned facilities meeting certain criteria and thresholds to components of the Strategic Intermodal System; amending s. 339.64, F.S.; directing the Florida Transportation Commission to include as part of its annual work program review an assessment of the department's progress on the Strategic Intermodal System; requiring an annual report; directing the department to coordinate with federal, regional, and local entities for transportation planning impacting military installations; requiring the Strategic Intermodal System Plan to include an assessment of the impacts of proposed projects on military installations; adding a military representative to the Governor's appointees to the Statewide Intermodal Transportation Advisory Council; creating part IV of chapter 343, F.S., titled the "Northwest Florida Transportation Corridor Authority"; providing a popular name; providing definitions; creating the Northwest Florida Transportation Corridor Authority encompassing Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, Franklin, and Wakulla Counties; providing for a governing body of the authority; providing for membership, organization, purposes, and powers of the authority; requiring a master plan; providing for the U.S. 98 Corridor System; prohibiting tolls on certain existing highways and other transportation facilities within the corridor; providing for procurement; providing bond financing authority for improvements; providing for bonds of the authority; providing for fiscal agents; providing that the State Board of Administration may act as fiscal agent; providing for certain financial agreements; providing for the rights and remedies of bondholders; providing for a lease-purchase agreement with the Department of Transportation; providing the department may be appointed agent of the authority for construction;

providing for acquisition of lands and property; providing for cooperation with other units, boards, agencies, and individuals; providing for public-private partnerships; providing covenant of the state; providing for exemption from taxation; providing for eligibility for investments and security; providing that pledges shall be enforceable by bondholders; providing for complete and additional statutory authority for the department and other state agencies; amending s. 348.0003, F.S.; changing the membership of expressway authority governing boards in certain counties; amending s. 348.0004, F.S.; requiring notification to certain local governmental entities and metropolitan planning organizations by certain expressway authorities proposing a toll increase or a new point of toll collection; providing procedures for public notice and hearing prior to implementation; creating part X of chapter 348, F.S., titled the "Osceola County Expressway Authority"; providing a popular name; providing definitions; creating the authority as an agency of the state; providing for membership, terms, organization, personnel, and administration; providing purposes and powers for construction, expansion, maintenance, improvement, and operation of the Osceola County Expressway System; providing for use of certain funds to pay obligations; requiring consent of local jurisdiction for agreements that would restrict construction of roads; providing for bond financing of improvements to certain facilities; providing for issuance of bonds; providing for rights and remedies granted to bondholders; providing for appointment of trustee to represent the bondholders; providing for appointment of receiver to take possession of and operate and maintain the system; providing for lease of the system to the Department of Transportation under a lease-purchase agreement; authorizing the department to act in place of the authority under terms of the lease-purchase agreement; requiring approval by the county for certain provisions of the lease-purchase agreement; providing that the system is part of the state road system; authorizing the department to expend a limited amount of funds; providing for the authority to appoint the department as its agent for certain construction purposes; authorizing the authority to acquire property; limiting liability of the authority for contamination existing on an acquired property; providing for remedial acts necessary due to such contamination; authorizing agreements between the authority and other entities; providing pledge of the state to bondholders; exempting the authority from taxation; providing for application and construction of the part; amending s. 373.4137, F.S.; revising requirements for projects intended to mitigate the adverse effects of transportation projects; removing the Department of Environmental Protection from the mitigation process; revising requirements for the Department of Transportation and transportation authorities with respect to submitting plans and inventories; authorizing the use of current-year funds for future projects; revising the requirements for reconciling escrow accounts used to fund mitigation projects; authorizing payments to a water management district to fund the costs of future maintenance and monitoring; requiring specified lump-sum payments to be used for the mitigation costs of certain projects; authorizing a governing board of a water management district to approve the use of mitigation funds for certain future projects; requiring that mitigation plans be approved by the water management district rather than the Department of Environmental Protection; directing the Department of Transportation to select and fund a consultant to perform a study of bicycle facilities on or connected to the State Highway System; requiring the results of the study to be presented to the Governor and the Legislature; providing for management of the study by the state Pedestrian and Bicycle Coordinator; providing for inclusion of certain elements in the study; requiring the study to include an implementation plan; providing an effective date.

—a companion measure, was substituted for **CS for CS for CS for SB 460** as amended and read the second time by title.

MOTION

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

Senator Sebesta moved the following amendment which was adopted:

Amendment 1 (221648)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 311.22, Florida Statutes, is created to read:

311.22 Additional authorization for funding certain dredging projects.—

(1) *The Florida Seaport Transportation and Economic Development Council shall establish a program to fund dredging projects in counties having a population of fewer than 300,000 according to the last official census. Funds made available under this program may be used to fund approved projects for the dredging or deepening of channels, turning basins, or harbors on a 50-50 matching basis with any port authority, as such term is defined in s. 315.02(2), which complies with the permitting requirements in part IV of chapter 373 and the local financial management and reporting provisions of part III of chapter 218.*

(2) *The council shall adopt rules for evaluating the projects that may be funded pursuant to this section. The rules must provide criteria for evaluating the economic benefit of the project. The rules must include the creation of an administrative review process by the council which is similar to the process described in s. 311.09(5)-(12), and provide for a review by the Department of Community Affairs, the Department of Transportation, and the Office of Tourism, Trade, and Economic Development of all projects submitted for funding under this section.*

Section 2. Subsection (8) of section 337.11, Florida Statutes, is amended to read:

337.11 Contracting authority of department; bids; emergency repairs, supplemental agreements, and change orders; combined design and construction contracts; progress payments; records; requirements of vehicle registration.—

(8)(a) The department shall permit the use of written supplemental agreements, *written work orders pursuant to a contingency pay item or contingency supplemental agreement*, and written change orders to any contract entered into by the department. Any supplemental agreement shall be reduced to written contract form, ~~approved by the contractor's surety~~, and executed by the contractor and the department. Any supplemental agreement modifying any item in the original contract must be approved by the head of the department, or his or her designee, and executed by the appropriate person designated by him or her. *Any surety issuing a bond under s. 337.18 shall be fully liable under such surety bond to the full extent of any modified contract amount up to and including 25 percent over the original contract amount and without regard to the fact that the surety was not aware of or did not approve such modifications. However, if modifications of the original contract amount cumulatively result in modifications of the contract amount in excess of 25 percent of the original contract amount, the surety's approval shall be required to bind the surety under the bond on that portion in excess of 25 percent of the original contract amount.*

(b) *Supplemental agreements and written work orders pursuant to a contingency pay item or contingency supplemental agreement shall be used to clarify the plans and specifications of a contract; to provide for major quantity differences which result in the contractor's work effort exceeding the original contract amount by more than 5 percent; to provide for unforeseen work, grade changes, or alterations in plans which could not reasonably have been contemplated or foreseen in the original plans and specifications; to change the limits of construction to meet field conditions; to provide a safe and functional connection to an existing pavement; to settle contract claims; and to make the project functionally operational in accordance with the intent of the original contract. Supplemental agreements may be used to expand the physical limits of a project only to the extent necessary to make the project functionally operational in accordance with the intent of the original contract. The cost of any such agreement extending the physical limits of a project shall not exceed \$100,000 or 10 percent of the original contract price, whichever is greater.*

(c) Written change orders may be issued by the department and accepted by the contractor covering minor changes in the plans, specifications, or quantities of work within the scope of a contract, when prices for the items of work affected are previously established in the contract, but in no event may such change orders extend the physical limits of the work.

(d) For the purpose of this section, the term "physical limits" means the length or width of any project and specifically includes drainage facilities not running parallel to the project. The length and width of temporary connections affected by such supplemental agreements shall be established in accordance with current engineering practice.

(e) Upon completion and final inspection of the contract work, the department may accept the improvement if it is in substantial compli-

ance with the plans, specifications, special provisions, proposals, and contract and if a proper adjustment in the contract price is made.

(f) Any supplemental agreement or change order in violation of this section is null and void and unenforceable for payment.

Section 3. Section 337.195, Florida Statutes, is created to read:

337.195 *Limits on liability.*—

(1) *In a civil action for the death of or injury to a person, or for damage to property, against the Department of Transportation or its agents, consultants, or contractors for work performed on a highway, road, street, bridge, or other transportation facility when the death, injury, or damage resulted from a motor vehicle crash within a construction zone in which the driver of one of the vehicles was under the influence of alcoholic beverages as set forth in s. 316.193, under the influence of any chemical substance as set forth in s. 877.111, or illegally under the influence of any substance controlled under chapter 893 to the extent that her or his normal faculties were impaired or that she or he operated a vehicle recklessly as defined in s. 316.192, it is presumed that the driver's operation of the vehicle was the sole proximate cause of his or her own death, injury, or damage. This presumption can be overcome if the gross negligence or intentional misconduct of the Department of Transportation, or of its agents, consultants, or contractors, was a proximate cause of the driver's death, injury, or damage.*

(2) *A contractor who constructs, maintains, or repairs a highway, road, street, bridge, or other transportation facility for the Department of Transportation is not liable to a claimant for personal injury, property damage, or death arising from the performance of the construction, maintenance, or repair if, at the time of the personal injury, property damage, or death, the contractor was in compliance with contract documents material to the condition that was the proximate cause of the personal injury, property damage, or death.*

(a) *The limitation on liability contained in this subsection does not apply when the proximate cause of the personal injury, property damage, or death is a latent condition, defect, error, or omission that was created by the contractor and not a defect, error, or omission in the contract documents; or when the proximate cause of the personal injury, property damage or death was the contractor's failure to perform, update or comply with the maintenance of traffic safety plan as required by the contract documents.*

(b) *Nothing in this subsection shall be interpreted or construed as relieving the contractor of any obligation to provide the Department of Transportation with written notice of any apparent error or omission in the contract documents.*

(c) *Nothing in this subsection shall be interpreted or construed to alter or affect any claim of the Department of Transportation against such contractor.*

(d) *This subsection does not affect any claim of any entity against such contractor, which claim is associated with such entity's facilities on or in Department of Transportation roads or other transportation facilities.*

(3) *In all cases involving personal injury, property damage, or death, a person or entity who contracts to prepare or provide engineering plans for the construction or repair of a highway, road, street, bridge, or other transportation facility for the Department of Transportation shall be presumed to have prepared such engineering plans using the degree of care and skill ordinarily exercised by other engineers in the field under similar conditions and in similar localities and with due regard for acceptable engineering standards and principles if the engineering plans conformed to the Department of Transportation's design standards material to the condition or defect that was the proximate cause of the person injury, property damage, or death. This presumption can be overcome only upon a showing of the person's or entity's gross negligence in the preparation of the engineering plans and shall not be interpreted or construed to alter or affect any claim of the Department of Transportation against such person or entity. The limitation on liability contained in this subsection shall not apply to any hidden or undiscoverable condition created by the engineer. This subsection does not affect any claim of any entity against such engineer or engineering firm, which claim is associated with such entity's facilities on or in Department of Transportation roads or other transportation facilities.*

(4) *In any civil action for death, injury, or damages against the Department of Transportation or its agents, consultants, engineers or contractors for work performed on a highway, road, street, bridge, or other transportation facility, if the department, its agents, consultants, engineers, or contractors are immune from liability pursuant to this section or are not parties to the litigation, they may not be named on the jury verdict form or be found to be at fault or responsible for the injury, death, or damage that gave rise to the damages.*

Section 4. Subsection (1) of section 338.155, Florida Statutes, is amended to read:

338.155 *Payment of toll on toll facilities required; exemptions.*—

(1) *No persons are permitted to use any toll facility without payment of tolls, except employees of the agency operating the toll project when using the toll facility on official state business, state military personnel while on official military business, handicapped persons as provided in this section, persons exempt from toll payment by the authorizing resolution for bonds issued to finance the facility, and persons exempt on a temporary basis where use of such toll facility is required as a detour route. Any law enforcement officer operating a marked official vehicle is exempt from toll payment when on official law enforcement business. Any person operating a fire vehicle when on official business or a rescue vehicle when on official business is exempt from toll payment. Any person participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty is exempt from toll payment. The secretary, or the secretary's designee, may suspend the payment of tolls on a toll facility when necessary to assist in emergency evacuation. The failure to pay a prescribed toll constitutes a noncriminal traffic infraction, punishable as a moving violation pursuant to s. 318.18. The department is authorized to adopt rules relating to guaranteed toll accounts.*

Section 5. Subsection (12) is added to section 339.175, Florida Statutes, to read:

339.175 *Metropolitan planning organization.*—It is the intent of the Legislature to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas of this state while minimizing transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state and public transit operators, transportation plans and programs for metropolitan areas. The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area, based upon the prevailing principles provided in s. 334.046(1). The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems to be addressed. To ensure that the process is integrated with the statewide planning process, M.P.O.'s shall develop plans and programs that identify transportation facilities that should function as an integrated metropolitan transportation system, giving emphasis to facilities that serve important national, state, and regional transportation functions. For the purposes of this section, those facilities include the facilities on the Strategic Intermodal System designated under s. 339.63.

(12) *VOTING REQUIREMENTS.*—*Each long-range transportation plan required pursuant to subsection (6); each annually updated Transportation Improvement Program required under subsection (7), and each amendment that affects projects in the first 3 years of such plans and programs, must be approved by each M.P.O. on a recorded roll call vote of the membership present.*

Section 6. Section 339.64, Florida Statutes, is amended to read:

339.64 *Strategic Intermodal System Plan.*—

(1) *The department shall develop, in cooperation with metropolitan planning organizations, regional planning councils, local governments, the Statewide Intermodal Transportation Advisory Council and other transportation providers, a Strategic Intermodal System Plan. The plan shall be consistent with the Florida Transportation Plan developed pur-*

suant to s. 339.155 and shall be updated at least once every 5 years, subsequent to updates of the Florida Transportation Plan.

(2) In association with the *continued* development of the ~~initial~~ Strategic Intermodal System Plan ~~and other transportation plans~~, the Florida Transportation Commission, *as part of its work program review process*, shall conduct an *annual* assessment of the *progress that the department and its transportation partners have made in realizing the goals of economic development, improved mobility, and increased intermodal connectivity* ~~need for an improved philosophical approach to regional and intermodal input in the planning for and governing of the Strategic Intermodal System and other transportation systems~~. The Florida Transportation Commission shall coordinate with the department, the Statewide Intermodal Transportation Advisory Council, and other appropriate entities when developing this assessment. The Florida Transportation Commission shall deliver a report to the Governor and Legislature *no later than 14 days after the regular session begins* ~~by December 15, 2003~~, with recommendations as necessary to fully implement the Strategic Intermodal System.

(3)(a) During the development of *updates to the Strategic Intermodal System Plan and the development of all subsequent updates*, the department shall provide metropolitan planning organizations, regional planning councils, local governments, transportation providers, affected public agencies, and citizens with an opportunity to participate in and comment on the development of the ~~proposed plan or update~~.

(b) *The department also shall coordinate with federal, regional, and local partners the planning for the Strategic Highway Network and the Strategic Rail Corridor Network transportation facilities that either are included in the Strategic Intermodal System or that provide a direct connection between military installations and the Strategic Intermodal System. In addition, the department shall coordinate with regional and local partners to determine whether the road and other transportation infrastructure that connects military installations to the Strategic Intermodal System, the Strategic Highway Network, or the Strategic Rail Corridor is regionally significant and should be included in the Strategic Intermodal System Plan.*

(4) The Strategic Intermodal System Plan shall include the following:

- (a) A needs assessment.
- (b) A project prioritization process.
- (c) A map of facilities designated as Strategic Intermodal System facilities; ~~and~~ facilities that are emerging in importance that are likely to become part of the system in the future; *and planned facilities that will meet the established criteria.*
- (d) A finance plan based on reasonable projections of anticipated revenues, including both 10-year and 20-year cost-feasible components.

(e) *An assessment of the impacts of proposed improvements to Strategic Intermodal System corridors on military installations that are either located directly on the Strategic Intermodal System or located on the Strategic Highway Network or Strategic Rail Corridor Network.*

(5) STATEWIDE INTERMODAL TRANSPORTATION ADVISORY COUNCIL.—

(a) The Statewide Intermodal Transportation Advisory Council is created to advise and make recommendations to the Legislature and the department on policies, planning, and funding of intermodal transportation projects. The council's responsibilities shall include:

- 1. Advising the department on the policies, planning, and implementation of strategies related to intermodal transportation.
- 2. Providing advice and recommendations to the Legislature on funding for projects to move goods and people in the most efficient and effective manner for the State of Florida.

(b) MEMBERSHIP.—Members of the Statewide Intermodal Transportation Advisory Council shall consist of the following:

- 1. ~~Six~~ Five intermodal industry representatives selected by the Governor as follows:

- a. One representative from an airport involved in the movement of freight and people from their airport facility to another transportation mode.
- b. One individual representing a fixed-route, local-government transit system.
- c. One representative from an intercity bus company providing regularly scheduled bus travel as determined by federal regulations.
- d. One representative from a spaceport.
- e. One representative from intermodal trucking companies.
- f. *One representative having command responsibilities of a major military installation.*

2. Three intermodal industry representatives selected by the President of the Senate as follows:

- a. One representative from major-line railroads.
- b. One representative from seaports listed in s. 311.09(1) from the Atlantic Coast.
- c. One representative from an airport involved in the movement of freight and people from their airport facility to another transportation mode.

3. Three intermodal industry representatives selected by the Speaker of the House of Representatives as follows:

- a. One representative from short-line railroads.
- b. One representative from seaports listed in s. 311.09(1) from the Gulf Coast.
- c. One representative from intermodal trucking companies. In no event may this representative be employed by the same company that employs the intermodal trucking company representative selected by the Governor.

(c) Initial appointments to the council must be made no later than 30 days after the effective date of this section.

1. The initial appointments made by the President of the Senate and the Speaker of the House of Representatives shall serve terms concurrent with those of the respective appointing officer. Beginning January 15, 2005, and for all subsequent appointments, council members appointed by the President of the Senate and the Speaker of the House of Representatives shall serve 2-year terms, concurrent with the term of the respective appointing officer.

2. The initial appointees, and all subsequent appointees, made by the Governor shall serve 2-year terms.

3. Vacancies on the council shall be filled in the same manner as the initial appointments.

(d) Each member of the council shall be allowed one vote. The council shall select a chair from among its membership. Meetings shall be held at the call of the chair, but not less frequently than quarterly. The members of the council shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

(e) The department shall provide administrative staff support and shall ensure that council meetings are electronically recorded. Such recordings and all documents received, prepared for, or used by the council in conducting its business shall be preserved pursuant to chapters 119 and 257.

Section 7. Part IV of chapter 343, Florida Statutes, consisting of sections 343.80, 343.805, 343.81, 343.82, 343.83, 343.835, 343.836, 343.837, 343.84, 343.85, 343.87, 343.875, 343.88, 343.881, 343.884, 343.885, and 343.89, is created to read:

PART IV
NORTHWEST FLORIDA TRANSPORTATION CORRIDOR
AUTHORITY

343.80 *Short title.*—This part may be cited as the “Northwest Florida Transportation Corridor Authority Law.”

343.805 *Definitions.*—As used in this part, the term:

(1) “Agency of the state” means the state and any department of, or corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by, the state.

(2) “Authority” means the body politic and corporate and agency of the state created by this part.

(3) “Bonds” means the notes, bonds, refunding bonds, or other evidences of indebtedness or obligations, in either temporary or definitive form, which the authority is authorized to issue pursuant to this part.

(4) “Department” means the Department of Transportation existing under chapters 334-339.

(5) “Federal agency” means the United States, the President of the United States, and any department of, or corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by, the United States.

(6) “Lease-purchase agreement” means the lease-purchase agreements that the authority is authorized pursuant to this part to enter into with the Department of Transportation.

(7) “Limited access expressway” or “expressway” means a street or highway especially designed for through traffic and over, from, or to which a person does not have the right of easement, use, or access except in accordance with the rules adopted and established by the authority for the use of such facility. Such highway or street may be a parkway, from which trucks, buses, and other commercial vehicles are excluded, or it may be a freeway open to use by all customary forms of street and highway traffic.

(8) “Members” means the governing body of the authority, and the term “member” means one of the individuals constituting such governing body.

(9) “State Board of Administration” means the body corporate existing under the provisions of s. 9, Art. XII of the State Constitution, or any successor thereto.

(10) “U.S. 98 corridor” means U.S. Highway 98 and any feeder roads, reliever roads, connector roads, bridges, and other transportation appurtenances, existing or constructed in the future, that support U.S. Highway 98 in Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, Franklin, and Wakulla Counties.

(11) “U.S. 98 corridor system” means any and all expressways and appurtenant facilities, including, but not limited to, all approaches, roads, bridges, and avenues of access for the expressways that are either built by the authority or whose ownership is transferred to the authority by other governmental or private entities.

Terms importing singular number include the plural number in each case and vice versa, and terms importing persons include firms and corporations.

343.81 *Northwest Florida Transportation Corridor Authority.*—

(1) There is created and established a body politic and corporate, an agency of the state, to be known as the Northwest Florida Transportation Corridor Authority, hereinafter referred to as “the authority.”

(2)(a) The governing body of the authority shall consist of eight voting members, one each from Escambia, Santa Rosa, Walton, Okaloosa, Bay, Gulf, Franklin, and Wakulla Counties, appointed by the Governor to a 4-year term. The appointees shall be residents of their respective counties. Upon the effective date of his or her appointment, or as soon thereafter as practicable, each appointed member of the authority shall enter upon his or her duties. Each appointed member shall hold office until his or her successor has been appointed and has qualified. A vacancy occurring during a term shall be filled only for the balance of the unexpired term. Any member of the authority shall be eligible for reappointment. Members of the authority may be removed from office by the Governor for misconduct, malfeasance, misfeasance, or nonfeasance in office.

(b) The district secretary of the Department of Transportation serving Northwest Florida shall serve as an *ex officio*, nonvoting member.

(3)(a) The authority shall elect one of its members as chair and shall also elect a secretary and a treasurer who may or may not be members of the authority. The chair, secretary, and treasurer shall hold such offices at the will of the authority.

(b) Five members of the authority shall constitute a quorum, and the vote of at least five members shall be necessary for any action taken by the authority. A vacancy in the authority does not impair the right of a quorum of the authority to exercise all of the rights and perform all of the duties of the authority.

(c) The authority shall meet at least quarterly but may meet more frequently upon the call of the chair. The authority should alternate the locations of its meetings among the seven counties.

(4) Members of the authority shall serve without compensation but shall be entitled to receive from the authority their travel expenses and per diem incurred in connection with the business of the authority, as provided in s. 112.061.

(5) The authority may employ an executive director, an executive secretary, its own counsel and legal staff, technical experts, engineers, and such employees, permanent or temporary, as it may require. The authority shall determine the qualifications and fix the compensation of such persons, firms, or corporations and may employ a fiscal agent or agents; however, the authority shall solicit sealed proposals from at least three persons, firms, or corporations for the performance of any services as fiscal agents. The authority may delegate to one or more of its agents or employees its power as it shall deem necessary to carry out the purposes of this part, subject always to the supervision and control of the authority.

(6) The authority may establish technical advisory committees to provide guidance and advice on corridor-related issues. The authority shall establish the size, composition, and focus of any technical advisory committee created. A member appointed to a technical advisory committee shall serve without compensation but shall be entitled to per diem or travel expenses, as provided in s. 112.061.

343.82 *Purposes and powers.*—

(1) The primary purpose of the authority is to improve mobility on the U.S. 98 corridor in Northwest Florida to enhance traveler safety, identify and develop hurricane evacuation routes, promote economic development along the corridor, and implement transportation projects to alleviate current or anticipated traffic congestion.

(2) The authority is authorized to construct any feeder roads, reliever roads, connector roads, bypasses, or appurtenant facilities that are intended to improve mobility along the U.S. 98 corridor. The transportation improvement projects may also include all necessary approaches, roads, bridges, and avenues of access that are desirable and proper with the concurrence, where applicable, of the department if the project is to be part of the State Highway System or the respective county or municipal governing boards. Any transportation facilities constructed by the authority may be tolled.

(3)(a) The authority shall develop and adopt a corridor master plan no later than July 1, 2007. The goals and objectives of the master plan are to identify areas of the corridor where mobility, traffic safety, and efficient hurricane evacuation needs to be improved; evaluate the economic development potential of the corridor and consider strategies to develop that potential; develop methods of building partnerships with local governments, other state and federal entities, the private-sector business community, and the public in support of corridor improvements; and to identify projects that will accomplish these goals and objectives.

(b) After its adoption, the master plan shall be updated annually before July 1 of each year.

(c) The authority shall present the original master plan and updates to the governing bodies of the counties within the corridor and to the legislative delegation members representing those counties within 90 days after adoption.

(d) The authority may undertake projects or other improvements in the master plan in phases as particular projects or segments thereof

become feasible, as determined by the authority. In carrying out its purposes and powers, the authority may request funding and technical assistance from the department and appropriate federal and local agencies, including, but not limited to, state infrastructure bank loans, advances from the Toll Facilities Revolving Trust Fund, and from any other sources.

(4) The authority is granted and shall have and may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers:

(a) To acquire, hold, construct, improve, maintain, operate, own, and lease in the capacity of lessor transportation facilities within the U.S. 98 corridor.

(b) To borrow money and to make and issue negotiable notes, bonds, refunding bonds, and other evidences of indebtedness or obligations, either in temporary or definitive form, hereinafter in this chapter sometimes called "revenue bonds" of the authority, for the purpose of financing all or part of the mobility improvements within the U.S. 98 corridor, as well as the appurtenant facilities, including all approaches, streets, roads, bridges, and avenues of access authorized by this part, the bonds to mature not exceeding 40 years after the date of the issuance thereof, and to secure the payment of such bonds or any part thereof by a pledge of any or all of its revenues, rates, fees, rentals, or other charges.

(c) To fix, alter, charge, establish, and collect tolls, rates, fees, rentals, and other charges for the services and facilities of the Northwest Florida Transportation Corridor System, which rates, fees, rentals, and other charges shall always be sufficient to comply with any covenants made with the holders of any bonds issued pursuant to this part; however, such right and power may be assigned or delegated by the authority to the department. The authority may not impose tolls or other charges on existing highways and other transportation facilities within the corridor.

(d) To acquire by donation or otherwise, purchase, hold, lease as lessee, and use any franchise, property, real, personal, or mixed, tangible or intangible, or any options thereof in its own name or in conjunction with others, or interest therein, necessary or desirable for carrying out the purposes of the authority and to sell, lease as lessor, transfer, and dispose of any property or interest therein at any time acquired by it.

(e) To sue and be sued, implead and be impleaded, complain, and defend in all courts.

(f) To adopt, use, and alter at will a corporate seal.

(g) To enter into and make leases.

(h) To enter into and make lease-purchase agreements with the department for terms not exceeding 40 years or until any bonds secured by a pledge of rentals thereunder, and any refundings thereof, are fully paid as to both principal and interest, whichever is longer.

(i) To make contracts of every name and nature, including, but not limited to, partnerships providing for participation in ownership and revenues, and to execute all instruments necessary or convenient for the carrying on of its business.

(j) Without limitation of the foregoing, to borrow money and accept grants from and to enter into contracts, leases, or other transactions with any federal agency, the state, any agency of the state, or any other public body of the state.

(k) To have the power of eminent domain, including the procedural powers granted under chapters 73 and 74.

(l) To pledge, hypothecate, or otherwise encumber all or any part of the revenues, rates, fees, rentals, or other charges or receipts of the authority.

(m) To enter into partnership and other agreements respecting ownership and revenue participation in order to facilitate financing and constructing any project or portions thereof.

(n) To participate in agreements with private entities and to receive private contributions.

(o) To contract with the department or with a private entity for the operation of traditional and electronic toll collection facilities along the U.S. 98 corridor.

(p) To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority in order to carry out the powers granted to it by this part or any other law.

(q) To construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards and to construct, repair, replace, operate, install, and maintain electronic toll payment systems thereon, with all necessary and incidental powers to accomplish the foregoing.

(5) The authority does not have power at any time or in any manner to pledge the credit or taxing power of the state or any political subdivision or agency thereof, nor shall any of the authority's obligations be deemed to be obligations of the state or of any political subdivision or agency thereof, nor shall the state or any political subdivision or agency thereof, except the authority, be liable for the payment of the principal of or interest on such obligations.

343.83 Improvements, bond financing authority.—Pursuant to s. 11(f), Art. VII of the State Constitution, the Legislature approves bond financing by the Northwest Florida Transportation Corridor Authority for improvements to toll collection facilities, interchanges to the legislatively approved system, and any other facility appurtenant, necessary, or incidental to the approved system. Subject to terms and conditions of applicable revenue bond resolutions and covenants, such costs may be financed in whole or in part by revenue bonds issued pursuant to s. 343.835(1)(a) or (b) whether currently issued or issued in the future or by a combination of such bonds.

343.835 Bonds of the authority.—

(1)(a) Bonds may be issued on behalf of the authority pursuant to the State Bond Act.

(b) Alternatively, the authority may issue its own bonds pursuant to this part at such times and in such principal amount as, in the opinion of the authority, is necessary to provide sufficient moneys for achieving its purposes; however, such bonds may not pledge the full faith and credit of the state. Bonds issued by the authority pursuant to this paragraph or paragraph (a), whether on original issuance or on refunding, shall be authorized by resolution of the members thereof, may be either term or serial bonds, and shall bear such date or dates, mature at such time or times, not exceeding 40 years after their respective dates, bear interest at such rate or rates, be payable semiannually, be in such denominations, be in such form, either coupon or fully registered, carry such registration, exchangeability, and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption, and be entitled to such priorities on the revenues, rates, fees, rentals, or other charges or receipts of the authority, including revenues from lease-purchase agreements. The bonds shall be executed either by manual or facsimile signature by such officers as the authority shall determine, however, such bonds shall bear at least one signature that is manually executed thereon, and the coupons attached to such bonds shall bear the facsimile signature or signatures of such officer or officers as shall be designated by the authority and have the seal of the authority affixed, imprinted, reproduced, or lithographed thereon, all as may be prescribed in such resolution or resolutions.

(c) Bonds issued pursuant to paragraph (a) or paragraph (b) shall be sold at public sale in the manner provided by the State Bond Act. However, if the authority, by official action at a public meeting, determines that a negotiated sale of such bonds is in the best interest of the authority, the authority may negotiate the sale of such bonds with the underwriter designated by the authority and the Division of Bond Finance within the State Board of Administration with respect to bonds issued pursuant to paragraph (a) or solely the authority with respect to bonds issued pursuant to paragraph (b). The authority's determination to negotiate the sale of such bonds may be based, in part, upon the written advice of the authority's financial adviser. Pending the preparation of definitive bonds, interim certificates may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(d) The authority may issue bonds pursuant to paragraph (b) to refund any bonds previously issued regardless of whether the bonds being

refunded were issued by the authority pursuant to this chapter or on behalf of the authority pursuant to the State Bond Act.

(2) Any such resolution or resolutions authorizing any bonds hereunder may contain provisions that are part of the contract with the holders of such bonds, as to:

(a) The pledging of all or any part of the revenues, rates, fees, rentals, or other charges or receipts of the authority, derived by the authority for the U.S. 98 corridor improvements.

(b) The completion, improvement, operation, extension, maintenance, repair, lease, or lease-purchase agreement of the system, and the duties of the authority and others, including the department, with reference thereto.

(c) Limitations on the purposes to which the proceeds of the bonds, then or thereafter to be issued, or of any loan or grant by the United States or the state may be applied.

(d) The fixing, charging, establishing, and collecting of rates, fees, rentals, or other charges for use of the services and facilities constructed by the authority.

(e) The setting aside of reserves or sinking funds or repair and replacement funds and the regulation and disposition thereof.

(f) Limitations on the issuance of additional bonds.

(g) The terms and provisions of any lease-purchase agreement, deed of trust, or indenture securing the bonds or under which the same may be issued.

(h) Any other or additional agreements with the holders of the bonds which the authority may deem desirable and proper.

(3) The authority may employ fiscal agents as provided by this part or the State Board of Administration may, upon request of the authority, act as fiscal agent for the authority in the issuance of any bonds that are issued pursuant to this part, and the State Board of Administration may, upon request of the authority, take over the management, control, administration, custody, and payment of any or all debt services or funds or assets now or hereafter available for any bonds issued pursuant to this part. The authority may enter into any deeds of trust, indentures, or other agreements with its fiscal agent, or with any bank or trust company within or without the state, as security for such bonds and may, under such agreements, sign and pledge all or any of the revenues, rates, fees, rentals, or other charges or receipts of the authority. Such deed of trust, indenture, or other agreement may contain such provisions as are customary in such instruments or, as the authority authorizes, including, but without limitation, provisions as to:

(a) The completion, improvement, operation, extension, maintenance, repair, and lease of or lease-purchase agreement relating to U.S. 98 corridor improvements and the duties of the authority and others, including the department, with reference thereto.

(b) The application of funds and the safeguarding of funds on hand or on deposit.

(c) The rights and remedies of the trustee and the holders of the bonds.

(d) The terms and provisions of the bonds or the resolutions authorizing the issuance of the bonds.

(4) Any of the bonds issued pursuant to this part are, and are hereby declared to be, negotiable instruments and have all the qualities and incidents of negotiable instruments under the law merchant and the negotiable instruments law of the state.

(5) Notwithstanding any of the provisions of this part, each project, building, or facility that has been financed by the issuance of bonds or other evidence of indebtedness under this part and any refinancing thereof are hereby approved as provided for in s. 11(f), Art. VII of the State Constitution.

(1) The rights and the remedies in this section conferred upon or granted to the bondholders are in addition to and not in limitation of any rights and remedies lawfully granted to such bondholders by the resolution or resolutions providing for the issuance of bonds or by a lease-purchase agreement, deed of trust, indenture, or other agreement under which the bonds may be issued or secured. If the authority defaults in the payment of the principal of or interest on any of the bonds issued pursuant to the provisions of this part after such principal of or interest on the bonds becomes due, whether at maturity or upon call for redemption, or the department defaults in any payments under, or covenants made in, any lease-purchase agreement between the authority and the department, and such default continues for a period of 30 days, or if the authority or the department fails or refuses to comply with the provisions of this part or any agreement made with, or for the benefit of, the holders of the bonds, the holders of 25 percent in aggregate principal amount of the bonds then outstanding may appoint a trustee to represent such bondholders for the purposes hereof, if such holders of 25 percent in aggregate principal amount of the bonds then outstanding shall first give notice of their intention to appoint a trustee to the authority and to the department. Such notice shall be deemed to have been given if given in writing, deposited in a securely sealed postpaid wrapper, mailed at a regularly maintained United States post office box or station, and addressed, respectively, to the chair of the authority and to the secretary of the department at the principal office of the department.

(2) Such trustee and any trustee under any deed of trust, indenture, or other agreement may, and upon written request of the holders of 25 percent or such other percentages as are specified in any deed of trust, indenture, or other agreement aforesaid in principal amount of the bonds then outstanding shall, in any court of competent jurisdiction, in his, her, or its own name:

(a) By mandamus or other suit, action, or proceeding at law or in equity, enforce all rights of the bondholders, including the right to require the authority to fix, establish, maintain, collect, and charge rates, fees, rentals, and other charges adequate to carry out any agreement as to or pledge of the revenues or receipts of the authority to carry out any other covenants and agreements with or for the benefit of the bondholders, and to perform its and their duties under this part.

(b) By mandamus or other suit, action, or proceeding at law or in equity, enforce all rights of the bondholders under or pursuant to any lease-purchase agreement between the authority and the department, including the right to require the department to make all rental payments required to be made by it under the provisions of any such lease-purchase agreement, to require the department to carry out any other covenants and agreements with or for the benefit of the bondholders and to perform its and their duties under this part.

(c) Bring suit upon the bonds.

(d) By action or suit in equity, require the authority or the department to account as if it were the trustee of an express trust for the bondholders.

(e) By action or suit in equity, enjoin any acts or things that may be unlawful or in violation of the rights of the bondholders.

(3) Any trustee, when appointed as aforesaid or acting under a deed of trust, indenture, or other agreement, and whether or not all bonds have been declared due and payable, may appoint a receiver who may enter upon and take possession of the system or the facilities or any part or parts thereof, the rates, fees, rentals, or other revenues, charges, or receipts from which are or may be applicable to the payment of the bonds so in default, and, subject to and in compliance with the provisions of any lease-purchase agreement between the authority and the department, operate and maintain the same for and on behalf of and in the name of the authority, the department, and the bondholders, and collect and receive all rates, fees, rentals, and other charges or receipts or revenues arising therefrom in the same manner as the authority or the department might do, and shall deposit all such moneys in a separate account and apply such moneys in such manner as the court shall direct. In any suit, action, or proceeding by the trustee, the fees, counsel fees, and expenses of the trustee and the receiver, if any, and all costs and disbursements allowed by the court shall be a first charge on any rates, fees, rentals, or other charges, revenues, or receipts derived from the system or the facilities or services or any part or parts thereof, including payments under any such lease-purchase agreement as aforesaid, which rates, fees, rentals, or other charges, revenues, or receipts may be applicable to the payment of

the bonds so in default. Such trustee, in addition to the foregoing, possesses all of the powers necessary for the exercise of any functions specifically set forth herein or incident to the representation of the bondholders in the enforcement and protection of their rights.

(4) This section or any other section of this part does not authorize any receiver appointed pursuant hereto for the purpose, subject to and in compliance with the provisions of any lease-purchase agreement between the authority and the department, of operating and maintaining the system or any facilities or part or parts thereof, to sell, assign, mortgage, or otherwise dispose of any of the assets of whatever kind and character belonging to the authority. It is the intention of this part to limit the powers of such receiver, subject to and in compliance with the provisions of any lease-purchase agreement between the authority and the department, to the operation and maintenance of the system or any facility or part or parts thereof, as the court may direct, in the name and for and on behalf of the authority, the department, and the bondholders. In any suit, action, or proceeding at law or in equity, a holder of bonds on the authority, a trustee, or any court may not compel or direct a receiver to sell, assign, mortgage, or otherwise dispose of any assets of whatever kind or character belonging to the authority. A receiver also may not be authorized to sell, assign, mortgage, or otherwise dispose of any assets of whatever kind or character belonging to the authority in any suit, action, or proceeding at law or in equity.

343.837 Lease-purchase agreement.—

(1) In order to effectuate the purposes of this part and as authorized by this part, the authority may enter into a lease-purchase agreement with the department relating to and covering the U.S. 98 Corridor System.

(2) Such lease-purchase agreement shall provide for the leasing of the system by the authority, as lessor, to the department, as lessee, shall prescribe the term of such lease and the rentals to be paid thereunder, and shall provide that, upon the completion of the faithful performance thereunder and the termination of such lease-purchase agreement, title in fee simple absolute to the system as then constituted shall be transferred in accordance with law by the authority to the state and the authority shall deliver to the department such deeds and conveyances as shall be necessary or convenient to vest title in fee simple absolute in the state.

(3) Such lease-purchase agreement may include such other provisions, agreements, and covenants as the authority and the department deem advisable or required, including, but not limited to, provisions as to the bonds to be issued for the purposes of this part, the completion, extension, improvement, operation, and maintenance of the system and the expenses and the cost of operation of the authority, the charging and collection of tolls, rates, fees, and other charges for the use of the services and facilities thereof, and the application of federal or state grants or aid which may be made or given to assist the authority in the completion, extension, improvement, operation, and maintenance of the system.

(4) The department as lessee under such lease-purchase agreement may pay as rentals thereunder any rates, fees, charges, funds, moneys, receipts, or income accruing to the department from the operation of the system and may also pay as rentals any appropriations received by the department pursuant to any act of the Legislature heretofore or hereafter enacted; however, nothing in this section or in such lease-purchase agreement is intended to require, nor shall this part or such lease-purchase agreement require, the making or continuance of such appropriations, nor shall any holder of bonds issued pursuant to this part ever have any right to compel the making or continuance of such appropriations.

(5) The department shall have power to covenant in any lease-purchase agreement that it will pay all or any part of the cost of the operation, maintenance, repair, renewal, and replacement of the corridor system, and any part of the cost of completing the corridor system to the extent that the proceeds of bonds issued are insufficient, from sources other than the revenues derived from the operation of the system.

(6) The U.S. 98 Corridor System shall be a part of the State Highway System as defined in s. 334.03, and the department may, upon the request of the authority, expend out of any funds available for that purpose, and use such of its engineering and other forces, as may be necessary and desirable in the judgment of the department, for the operation of the authority and for traffic surveys, borings, surveys, preparation of plans and specifications, estimates of cost, and other preliminary engineering and other studies.

343.84 Department may be appointed agent of authority for construction.—The department may be appointed by the authority as its agent for the purpose of constructing improvements and extensions to the system and for the completion thereof. In such event, the authority shall provide the department with complete copies of all documents, agreements, resolutions, contracts, and instruments relating thereto, shall request the department to do such construction work, including the planning, surveying, and actual construction of the completion, extensions, and improvements to the system, and shall transfer to the credit of an account of the department in the treasury of the state the necessary funds therefor. The department shall proceed with such construction and use the funds for such purpose in the same manner that it is now authorized to use the funds otherwise provided by law for its use in construction of roads and bridges.

343.85 Acquisition of lands and property.—

(1) For the purposes of this part, the Northwest Florida Transportation Corridor Authority may acquire private or public property and property rights, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation by eminent domain proceedings, as the authority may deem necessary for any purpose of this part, including, but not limited to, any lands reasonably necessary for securing applicable permits, areas necessary for management of access, borrow pits, drainage ditches, water retention areas, rest areas, replacement access for landowners whose access is impaired due to the construction of a facility, and replacement rights-of-way for relocated rail and utility facilities; for existing, proposed, or anticipated transportation facilities within the U.S. 98 transportation corridor designated by the authority; or for the purposes of screening, relocation, removal, or disposal of junkyards and scrap metal processing facilities. The authority may condemn any material and property necessary for such purposes.

(2) The right of eminent domain herein conferred shall be exercised by the authority in the manner provided by law.

(3) When the authority acquires property for a transportation facility or in a transportation corridor, the authority is not subject to any liability imposed by chapter 376 or chapter 403 for preexisting soil or groundwater contamination due solely to its ownership. This section does not affect the rights or liabilities of any past or future owners of the acquired property, nor does it affect the liability of any governmental entity for the results of its actions which create or exacerbate a pollution source. The authority and the Department of Environmental Protection may enter into interagency agreements for the performance, funding, and reimbursement of the investigative and remedial acts necessary for property acquired by the authority.

343.87 Cooperation with other units, boards, agencies, and individuals.—Express authority and power is hereby given and granted to any county, municipality, drainage district, road and bridge district, school district, or any other political subdivision, board, commission, or individual in or of the state to make and enter into contracts, leases, conveyances, partnerships, or other agreements with the authority within the provisions and purposes of this part. The authority may make and enter into contracts, leases, conveyances, partnerships, and other agreements with any political subdivision, agency, or instrumentality of the state and any and all federal agencies, corporations, and individuals for the purpose of carrying out the provisions of this part.

343.875 Public-private partnerships.—

(1) The authority may receive or solicit proposals and enter into agreements with private entities or consortia thereof, for the building, operation, ownership, or financing of transportation facilities within the jurisdiction of the authority. Before approval, the authority must determine that a proposed project:

(a) Is in the public's best interest.

(b) Would not require state funds to be used unless the project is on or provides increased mobility on the State Highway System.

(c) Would have adequate safeguards to ensure that additional costs or service disruptions would not be realized by the traveling public and citizens of the state in the event of default or the cancellation of the agreement by the authority.

(2) The authority shall ensure that all reasonable costs to the state related to transportation facilities that are not part of the State Highway System are borne by the private entity. The authority also shall ensure that all reasonable costs to the state and substantially affected local governments and utilities related to the private transportation facility are borne by the private entity for transportation facilities that are owned by private entities. For projects on the State Highway System, the department may use state resources to participate in funding and financing the project as provided for under the department's enabling legislation.

(3) The authority may request proposals for public-private transportation projects or, if it receives an unsolicited proposal, it must publish a notice in the Florida Administrative Weekly and a newspaper of general circulation in the county in which it is located at least once a week for 2 weeks stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has expired, the authority shall rank the proposals in order of preference. In ranking the proposals, the authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the authority may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the authority may negotiate in good faith and, if it is not satisfied with the results, it may, at its sole discretion, terminate negotiations with the proposer. Notwithstanding this subsection, the authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

(4) Agreements entered into pursuant to this section may authorize the public-private entity to impose tolls or fares for the use of the facility. However, the amount and use of toll or fare revenues shall be regulated by the authority to avoid unreasonable costs to users of the facility.

(5) Each public-private transportation facility constructed pursuant to this section shall comply with all requirements of federal, state, and local laws; state, regional, and local comprehensive plans; the authority's rules, policies, procedures, and standards for transportation facilities; and any other conditions that the authority determines to be in the public's best interest.

(6) The authority may exercise any of its powers, including eminent domain, to facilitate the development and construction of transportation projects pursuant to this section. The authority may pay all or part of the cost of operating and maintaining the facility or may provide services to the private entity for which it receives full or partial reimbursement for services rendered.

(7) Except as herein provided, this section is not intended to amend existing law by granting additional powers to or imposing further restrictions on the governmental entities with regard to regulating and entering into cooperative arrangements with the private sector for the planning, construction, and operation of transportation facilities.

(8) The authority may adopt rules to implement this section and shall, by rule, establish an application fee for the submission of unsolicited proposals under this section. The fee must be sufficient to pay the costs of evaluating the proposals.

343.88 *Covenant of the state.*—The state does hereby pledge to, and agrees with, any person, firm or corporation, or federal or state agency subscribing to or acquiring the bonds to be issued by the authority for the purposes of this part that the state will not limit or alter the rights hereby vested in the authority and the department until all bonds at any time issued, together with the interest thereon, are fully paid and discharged insofar as the same affects the rights of the holders of bonds issued hereunder. The state does further pledge to, and agree with, the United States that, if any federal agency constructs or contributes any funds for the completion, extension, or improvement of the system or any part or portion thereof, the state will not alter or limit the rights and powers of the authority and the department in any manner which would be inconsistent with the continued maintenance and operation of the system or the completion, extension, or improvement thereof or which would be inconsistent with the due performance of any agreements between the authority and any such federal agency. The authority and the department shall

continue to have and may exercise all powers herein granted so long as necessary or desirable for the carrying out of the purposes of this part and the purposes of the United States in the completion, extension, or improvement of the system or any part or portion thereof.

343.881 *Exemption from taxation.*—The effectuation of the authorized purposes of the authority created under this part is for the benefit of the people of this state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions and, because the authority performs essential governmental functions in effectuating such purposes, the authority is not required to pay any taxes or assessments of any kind or nature whatsoever upon any property acquired or used by it for such purposes, or upon any rates, fees, rentals, receipts, income, or charges at any time received by it. The bonds issued by the authority, their transfer, and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation of any kind by the state or by any political subdivision, taxing agency, or instrumentality thereof. The exemption granted by this section does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

343.884 *Eligibility for investments and security.*—Any bonds or other obligations issued pursuant to this part shall be and constitute legal investments for banks, savings banks, trustees, executors, administrators, and all other fiduciaries and for all state, municipal, and other public funds and shall also be and constitute securities eligible for deposit as security for all state, municipal, or other public funds, notwithstanding the provisions of any other law to the contrary.

343.885 *Pledges enforceable by bondholders.*—It is the express intention of this part that any pledge to the authority by the department of rates, fees, revenues, or other funds as rentals, or any covenants or agreements relative thereto, is enforceable in any court of competent jurisdiction against the authority or directly against the department by any holder of bonds issued by the authority.

343.89 *Complete and additional statutory authority.*—

(1) The powers conferred by this part are supplemental to the existing powers of the board and the department. This part does not repeal any of the provisions of any other law, general, special, or local, but supersedes such other laws in the exercise of the powers provided in this part and provides a complete method for the exercise of the powers granted in this part. The extension and improvement of the system, and the issuance of bonds hereunder to finance all or part of the cost thereof, may be accomplished upon compliance with the provisions of this part without regard to or necessity for compliance with the provisions, limitations, or restrictions contained in any other general, special, or local law, including, but not limited to, s. 215.821. An approval of any bonds issued under this part by the qualified electors or qualified electors who are freeholders in the state or in any other political subdivision of the state is not required for the issuance of such bonds pursuant to this part.

(2) This part does not repeal, rescind, or modify any other law relating to the State Board of Administration, the Department of Transportation, or the Division of Bond Finance within the State Board of Administration; however, this part supersedes such other laws as are inconsistent with its provisions, including, but not limited to, s. 215.821.

(3) This part does not preclude the department from acquiring, holding, constructing, improving, maintaining, operating, or owning tolled or nontolled facilities funded and constructed from nonauthority sources that are part of the State Highway System within the geographical boundaries of the Northwest Florida Transportation Corridor Authority.

Section 8. Subsection (10) is added to section 337.251, Florida Statutes, to read:

337.251 *Lease of property for joint public-private development and areas above or below department property.*—

(10) The department may adopt rules to administer the provisions of this section.

Section 9. Subsection (1) of section 337.406, Florida Statutes, is amended to read:

337.406 *Unlawful use of state transportation facility right-of-way; penalties.*—

(1) Except when leased as provided in s. 337.25(5) or otherwise authorized by the rules of the department, it is unlawful to make any use of the right-of-way of any state transportation facility, including appendages thereto, outside of an incorporated municipality in any manner that interferes with the safe and efficient movement of people and property from place to place on the transportation facility. Failure to prohibit the use of right-of-way in this manner will endanger the health, safety, and general welfare of the public by causing distractions to motorists, unsafe pedestrian movement within travel lanes, sudden stoppage or slowdown of traffic, rapid lane changing and other dangerous traffic movement, increased vehicular accidents, and motorist injuries and fatalities. Such prohibited uses include, but are not limited to, the free distribution or sale, or display or solicitation for free distribution or sale, of any merchandise, goods, property or services; the solicitation for charitable purposes; the servicing or repairing of any vehicle, except the rendering of emergency service; the storage of vehicles being serviced or repaired on abutting property or elsewhere; and the display of advertising of any sort, except that any portion of a state transportation facility may be used for an art festival, parade, fair, or other special event if permitted by the appropriate local governmental entity. *Local government entities within incorporated municipalities, the local governmental entity may issue permits of limited duration for the temporary use of the right-of-way of a state transportation facility for any of these prohibited uses if it is determined that the use will not interfere with the safe and efficient movement of traffic and the use will cause no danger to the public. The permitting authority granted in this subsection shall be exercised by the municipality within incorporated municipalities and by the county outside an incorporated municipality.* Before a road on the State Highway System may be temporarily closed for a special event, the local governmental entity which permits the special event to take place must determine that the temporary closure of the road is necessary and must obtain the prior written approval for the temporary road closure from the department. Nothing in this subsection shall be construed to authorize such activities on any limited access highway the Interstate Highway System. Local governmental entities may, within their respective jurisdictions, initiate enforcement action by the appropriate code enforcement authority or law enforcement authority for a violation of this section.

Section 10. Subsection (2) of section 339.55, Florida Statutes, is amended to read:

339.55 State-funded infrastructure bank.—

(2) The bank may lend capital costs or provide credit enhancements for a transportation facility project that is on the State Highway System or that provides for increased mobility on the state's transportation system or provides intermodal connectivity with airports, seaports, rail facilities, and other transportation terminals, pursuant to s. 341.053, for the movement of people and goods. Loans from the bank may be subordinated to senior project debt that has an investment grade rating of "BBB" or higher. *Notwithstanding any other provision of law, the total outstanding state-funded infrastructure bank loan repayments over the average term of the loan repayment period, as needed to meet the requirements of the documents authorizing the bonds issued or proposed to be issued under s. 215.617 to be paid from the State Transportation Trust Fund, may not exceed 0.75 percent of the revenues deposited into the State Transportation Trust Fund.*

Section 11. Section 373.4137, Florida Statutes, is amended to read:

373.4137 Mitigation requirements for specified transportation projects.—

(1) The Legislature finds that environmental mitigation for the impact of transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 can be more effectively achieved by regional, long-range mitigation planning rather than on a project-by-project basis. It is the intent of the Legislature that mitigation to offset the adverse effects of these transportation projects be funded by the Department of Transportation and be carried out by the Department of Environmental Protection and the water management districts, including the use of mitigation banks established pursuant to this part.

(2) Environmental impact inventories for transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 shall be developed as follows:

(a) ~~By July 1 of each year, the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 shall submit to the Department of Environmental Protection and the water management districts a copy of its adopted work program and an environmental impact inventory of habitats addressed in the rules adopted tentatively, pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted by its plan of construction for transportation projects in the next 3 years of the tentative work program. The Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 may also include in its environmental impact inventory the habitat impacts of any future transportation project identified in the tentative work program. The Department of Transportation and each transportation authority established pursuant to chapter 348 or chapter 349 may fund any mitigation activities for future projects using current year funds.~~

(b) The environmental impact inventory shall include a description of these habitat impacts, including their location, acreage, and type; state water quality classification of impacted wetlands and other surface waters; any other state or regional designations for these habitats; and a survey of threatened species, endangered species, and species of special concern affected by the proposed project.

(3)(a) To fund *development and implementation of* the mitigation plan for the projected impacts identified in the *environmental impact inventory* described in subsection (2), the Department of Transportation shall identify funds quarterly in an escrow account within the State Transportation Trust Fund for the environmental mitigation phase of projects budgeted by the Department of Transportation for the current fiscal year. The escrow account shall be maintained by the Department of Transportation for the benefit of the Department of Environmental Protection and the water management districts. Any interest earnings from the escrow account shall remain with the Department of Transportation.

(b) Each transportation authority established pursuant to chapter 348 or chapter 349 that chooses to participate in this program shall create an escrow account within its financial structure and deposit funds in the account to pay for the environmental mitigation phase of projects budgeted for the current fiscal year. The escrow account shall be maintained by the authority for the benefit of the Department of Environmental Protection and the water management districts. Any interest earnings from the escrow account shall remain with the authority.

(c) ~~Except for current mitigation projects in the monitoring and maintenance phase and except as allowed by paragraph (d), the Department of Environmental Protection or water management districts may request a transfer of funds from an escrow account no sooner than 30 days prior to the date the funds are needed to pay for activities associated with development or implementation of the approved mitigation plan described in subsection (4) for the current fiscal year, including, but not limited to, design, engineering, production, and staff support. Actual conceptual plan preparation costs incurred before plan approval may be submitted to the Department of Transportation or the appropriate transportation authority and the Department of Environmental Protection by November 1 of each year with the plan. The conceptual plan preparation costs of each water management district will be paid from mitigation funds associated with the environmental impact inventory for the current year based on the amount approved on the mitigation plan and allocated to the current fiscal year projects identified by the water management district. The amount transferred to the escrow accounts each year by the Department of Transportation and participating transportation authorities established pursuant to chapter 348 or chapter 349 shall correspond to a cost per acre of \$75,000 multiplied by the projected acres of impact identified in the environmental impact inventory described in subsection (2). However, the \$75,000 cost per acre does not constitute an admission against interest by the state or its subdivisions nor is the cost admissible as evidence of full compensation for any property acquired by eminent domain or through inverse condemnation. Each July 1, the cost per acre shall be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. Each quarter At the end of each year, the projected acreage of impact shall be reconciled with the acreage of impact of projects as permitted, including permit modifications, pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344. The subject year's transfer of funds shall be adjusted~~

accordingly to reflect the acreage of impacts as permitted over transfer or under transfer of funds from the preceding year. The Department of Transportation and participating transportation authorities established pursuant to chapter 348 or chapter 349 are authorized to transfer such funds from the escrow accounts to the Department of Environmental Protection and the water management districts to carry out the mitigation programs. For a mitigation project that is in the maintenance and monitoring phase, the water management district may request and receive a one-time payment based on the project's expected future maintenance and monitoring costs. Upon disbursement of the final maintenance and monitoring payment, the escrow account for the project established by the Department of Transportation or the participating transportation authority may be closed. Any interest earned on these disbursed funds shall remain with the water management district and must be used as authorized under paragraph (4)(c).

(d) Beginning in the 2005-2006 fiscal year, each water management district shall be paid a lump-sum amount of \$75,000 per acre, adjusted as provided under paragraph (c), for federally funded transportation projects that are included on the environmental impact inventory and that have an approved mitigation plan. Beginning in the 2009-2010 fiscal year, each water management district shall be paid a lump-sum amount of \$75,000 per acre, adjusted as provided under paragraph (c), for federally funded and nonfederally funded transportation projects that have an approved mitigation plan. All mitigation costs, including, but not limited to, the costs of preparing conceptual plans and the costs of design, construction, staff support, future maintenance, and monitoring the mitigated acres shall be funded through these lump-sum amounts.

(4) Prior to March ~~December~~ 1 of each year, each water management district, in consultation with the Department of Environmental Protection, the United States Army Corps of Engineers, the Department of Transportation, transportation authorities established pursuant to chapter 348 or chapter 349, and other appropriate federal, state, and local governments, and other interested parties, including entities operating mitigation banks, shall develop a plan for the primary purpose of complying with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. ~~This plan shall also address significant invasive plant problems within wetlands and other surface waters.~~ In developing such plans, the districts shall utilize sound ecosystem management practices to address significant water resource needs and shall focus on activities of the Department of Environmental Protection and the water management districts, such as surface water improvement and management (SWIM) projects waterbodies and lands identified for potential acquisition for preservation, restoration or, and enhancement, and the control of invasive and exotic plants in wetlands and other surface waters, to the extent that such activities comply with the mitigation requirements adopted under this part and 33 U.S.C. s. 1344. In determining the activities to be included in such plans, the districts shall also consider the purchase of credits from public or private mitigation banks permitted under s. 373.4136 and associated federal authorization and shall include such purchase as a part of the mitigation plan when such purchase would offset the impact of the transportation project, provide equal benefits to the water resources than other mitigation options being considered, and provide the most cost-effective mitigation option. The mitigation plan shall be submitted to ~~preliminarily approved by the water management district governing board, or its designee, and shall be submitted to the secretary of the Department of Environmental Protection for review and final approval. The preliminary approval by the water management district governing board does not constitute a decision that affects substantial interests as provided by s. 120.569.~~ At least 14 ~~30~~ days prior to ~~preliminary~~ approval, the water management district shall provide a copy of the draft mitigation plan to any person who has requested a copy.

(a) For each transportation project with a funding request for the next fiscal year, the mitigation plan must include a brief explanation of why a mitigation bank was or was not chosen as a mitigation option, including an estimation of identifiable costs of the mitigation bank and nonbank options to the extent practicable.

(b) Specific projects may be excluded from the mitigation plan, *in whole or in part*, and shall not be subject to this section upon the agreement of the Department of Transportation, or a transportation authority if applicable, the Department of Environmental Protection, and the appropriate water management district that the inclusion of such projects would hamper the efficiency or timeliness of the mitigation planning and permitting process, ~~or the Department of Environmental Protection and~~

The water management district may choose to exclude a project in whole or in part if the district is ~~are~~ unable to identify mitigation that would offset the impacts of the project.

(c) Surface water improvement and management or invasive plant control projects undertaken using the \$12 million advance transferred from the Department of Transportation to the Department of Environmental Protection in fiscal year 1996-1997 which meet the requirements for mitigation under this part and 33 U.S.C. s. 1344 shall remain available for mitigation until the \$12 million is fully credited up to and including fiscal year 2005-2006. When these projects are used as mitigation, the \$12 million advance shall be reduced by \$75,000 per acre of impact mitigated. ~~For any fiscal year through and including fiscal year 2005-2006,~~ To the extent the cost of developing and implementing the mitigation plans is less than the funds placed in the escrow account ~~amount transferred~~ pursuant to subsection (3), the difference shall be retained by the Department of Transportation and credited towards the \$12 million advance until the Department of Transportation is fully refunded for this advance funding. After the \$12 million advance funding is fully credited ~~Except as provided in this paragraph,~~ any funds not directed to implement the mitigation plan should, to the greatest extent possible, be directed to fund invasive plant control within wetlands and other surface waters, SWIM projects, or other water-resource projects approved by the governing board of the water management district which may be appropriate to offset environmental impacts of future transportation projects. The water management districts may request these funds upon submittal of the final invoice for each road project.

(5) The water management district shall be responsible for ensuring that mitigation requirements pursuant to 33 U.S.C. s. 1344 are met for the impacts identified in the *environmental impact* inventory described in subsection (2), by implementation of the approved plan described in subsection (4) to the extent funding is provided by the Department of Transportation, or a transportation authority established pursuant to chapter 348 or chapter 349, if applicable. During the federal permitting process, the water management district may deviate from the approved mitigation plan in order to comply with federal permitting requirements.

(6) The mitigation plans shall be updated annually to reflect the most current Department of Transportation work program and project list of a transportation authority established pursuant to chapter 348 or chapter 349, if applicable, and may be amended throughout the year to anticipate schedule changes or additional projects which may arise. Each update and amendment of the mitigation plan shall be submitted to the governing board of the water management district or its designee ~~secretary of the Department of Environmental Protection~~ for approval. However, such approval shall not be applicable to a deviation as described in subsection (5).

(7) Upon approval by the governing board of the water management district or its designee ~~secretary of the Department of Environmental Protection~~, the mitigation plan shall be deemed to satisfy the mitigation requirements under this part for impacts specifically identified in the *environmental impact* inventory described in subsection (2) and any other mitigation requirements imposed by local, regional, and state agencies for these same impacts identified in the inventory described in subsection (2). The approval of the governing board of the water management district or its designee ~~secretary~~ shall authorize the activities proposed in the mitigation plan, and no other state, regional, or local permit or approval shall be necessary.

(8) This section shall not be construed to eliminate the need for the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 to comply with the requirement to implement practicable design modifications, including realignment of transportation projects, to reduce or eliminate the impacts of its transportation projects on wetlands and other surface waters as required by rules adopted pursuant to this part, or to diminish the authority under this part to regulate other impacts, including water quantity or water quality impacts, or impacts regulated under this part that are not identified in the *environmental impact* inventory described in subsection (2).

(9) The process for environmental mitigation for the impact of transportation projects under this section shall be available to an expressway, bridge, or transportation authority established under chapter 348 or chapter 349. Use of this process may be initiated by an authority depositing the requisite funds into an escrow account set up by the authority

and filing an environmental impact inventory with the appropriate water management district. An authority that initiates the environmental mitigation process established by this section shall comply with subsection (6) by timely providing the appropriate water management district and the Department of Environmental Protection with the requisite work program information. A water management district may draw down funds from the escrow account as provided in this section.

Section 12. Paragraph (b) of subsection (19) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(19) SUBSTANTIAL DEVIATIONS.—

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the following criteria shall constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review without the necessity for a finding of same by the local government:

1. An increase in the number of parking spaces at an attraction or recreational facility by 5 percent or 300 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 5 percent or 1,000 spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25-percent lengthening of an existing runway, or a 25-percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates. ~~However, if an airport is located in two counties, a 10-percent lengthening of an existing runway or a 20-percent increase in the number of gates of an existing terminal is the applicable criteria.~~

3. An increase in the number of hospital beds by 5 percent or 60 beds, whichever is greater.

4. An increase in industrial development area by 5 percent or 32 acres, whichever is greater.

5. An increase in the average annual acreage mined by 5 percent or 10 acres, whichever is greater, or an increase in the average daily water consumption by a mining operation by 5 percent or 300,000 gallons, whichever is greater. An increase in the size of the mine by 5 percent or 750 acres, whichever is less.

6. An increase in land area for office development by 5 percent or an increase of gross floor area of office development by 5 percent or 60,000 gross square feet, whichever is greater.

7. An increase in the storage capacity for chemical or petroleum storage facilities by 5 percent, 20,000 barrels, or 7 million pounds, whichever is greater.

8. An increase of development at a waterport of wet storage for 20 watercraft, dry storage for 30 watercraft, or wet/dry storage for 60 watercraft in an area identified in the state marina siting plan as an appropriate site for additional waterport development or a 5-percent increase in watercraft storage capacity, whichever is greater.

9. An increase in the number of dwelling units by 5 percent or 50 dwelling units, whichever is greater.

10. An increase in commercial development by 50,000 square feet of gross floor area or of parking spaces provided for customers for 300 cars or a 5-percent increase of either of these, whichever is greater.

11. An increase in hotel or motel facility units by 5 percent or 75 units, whichever is greater.

12. An increase in a recreational vehicle park area by 5 percent or 100 vehicle spaces, whichever is less.

13. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

14. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 100 percent. The percentage of any decrease in the amount of

open space shall be treated as an increase for purposes of determining when 100 percent has been reached or exceeded.

15. A 15-percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

16. Any change which would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The further refinement of such areas by survey shall be considered under subparagraph (e)5.b.

The substantial deviation numerical standards in subparagraphs 4., 6., 10., 14., excluding residential uses, and 15., are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Office of Tourism, Trade, and Economic Development as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 4., 6., 9., 10., 11., and 14. are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

Section 13. *Bicycle system study.*—*Prior to October 1, 2005, the Department of Transportation shall perform a bicycle system study of bicycle facilities that are on or connected to the State Highway System. The results of the bicycle system study shall be presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2005. The bicycle system study shall include paved bicycle lanes, bicycle trails, bicycle paths, and any route or facility designated specifically for bicycle traffic. The study shall be performed by a consultant selected and funded by the department and shall be managed by the department's State Pedestrian and Bicycle Coordinator. The study shall include:*

(1) *Review of department standards for bicycle lanes to determine if they meet the needs of the state's bicyclists.*

(2) *Identification of state highways with existing designated bicycle lanes.*

(3) *Identification of state highways with no designated bicycle lanes and any constraints to incorporating these facilities.*

(4) *Providing electronic mapping of those facilities identified in subsections (2) and (3).*

(5) *Identification of all bicycle facility needs on the State Highway System.*

(6) *Review and identification of possible funding sources for new or improved facilities.*

(7) *A proposed implementation plan that will identify the incorporation of bicycle facilities on those state highways programmed for rehabilitation or new construction in the department's 5-year work program. The proposed plan must include the costs associated within the work program to add these facilities.*

Section 14. 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 transportation; creating s. 311.22, F.S.; establishing a program to provide matching funds for dredging projects in eligible counties; requiring that funds appropriated under the program be used for certain projects; requiring that the Florida Seaport Transportation and Economic Development Council adopt rules for evaluating the dredging projects; providing criteria for the rules; providing for a project-review process by the Department of Community Affairs, the Department of Transportation, and the Office of Tourism, Trade, and Economic Development; amending s. 337.11, F.S.; adding written work orders to the type of documents covered by the department's contracting laws;

specifying changes to surety bondholder's liability under certain circumstances; creating s. 337.195, F.S.; providing presumptions relating to liability in certain actions against the department; limiting liability, in certain circumstances, of contractors and engineers doing work for the department; amending 338.155, F.S.; providing that persons participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty are exempt from paying tolls; amending 339.175, F.S.; requiring metropolitan planning organizations to have recorded roll-votes and super-majority votes on certain plans; amending s. 339.64, F.S.; requiring the Florida Transportation Commission to include as part of its annual work program review an assessment of the department's progress on the Strategic Intermodal System; requiring an annual report to the Governor and the Legislature by a certain time period; directing the department to coordinate with federal, regional, and local entities for transportation planning that impacts military installations; requiring the Strategic Intermodal System Plan to include an assessment of the impacts of proposed projects on military installations; adding a military representative to the Governor's appointees to the Strategic Intermodal Transportation Advisory Council; deleting obsolete provisions; creating part IV of chapter 343, F.S., entitled "Northwest Florida Transportation Corridor Authority"; providing a short title; providing definitions; creating the Northwest Florida Transportation Corridor Authority encompassing Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, Franklin, and Wakulla Counties; providing for a governing body of the authority; providing for membership, organization, purposes, and powers of the authority; requiring a master plan; providing for the U.S. 98 Corridor System; prohibiting tolls on certain existing highways and other transportation facilities within the corridor; providing for procurement; providing bond financing authority for improvements; providing for bonds of the authority; providing for fiscal agents; providing that the State Board of Administration may act as fiscal agent; providing for certain financial agreements; providing for the rights and remedies of bondholders; providing for a lease-purchase agreement with the department; authorizing the authority to appoint the department as its agent for construction; providing for acquisition of lands and property; providing for cooperation with other units, boards, agencies, and individuals; providing for public-private partnerships; providing covenant of the state; providing for exemption from taxation; providing for eligibility for investments and security; providing that pledges are enforceable by bondholders; providing for complete and additional statutory authority for the department and other state agencies; amending s. 337.251, F.S.; authorizing the department to adopt rules governing the leasing of property for joint public-private development; amending s. 337.406, F.S.; granting local governments authority to issue permits allowing limited temporary use of state transportation right-of-way; clarifying limited access facilities are not included in such authority; amending s. 339.55, F.S.; establishing a maximum limit on state-funded infrastructure bank loans to the State Transportation Trust Fund; amending s. 373.4137, F.S.; revising the requirements for projects intended to mitigate the adverse effects of transportation projects; removing the Department of Environmental Protection from the mitigation process; revising requirements for the Department of Transportation and the transportation authorities with respect to submitting plans and inventories; authorizing the use of current-year funds for future projects; revising the requirements for reconciling escrow accounts used to fund mitigation projects; authorizing payments to a water management district to fund the costs of future maintenance and monitoring; requiring specified lump-sum payments to be used for the mitigation costs of certain projects; authorizing a governing board of a water management district to approve the use of mitigation funds for certain future projects; requiring that mitigation plans be approved by the water management district rather than the Department of Environmental Protection; amending s. 380.06, F.S., relating to developments of regional impact; deleting a provision stating criteria for determining when a change to certain airports necessitates a review; directing the Department of Transportation to select and fund a consultant to perform a study of bicycle facilities on or connected to the State Highway System; requiring the results of the study to be presented to the Governor and the Legislature; providing for management of the study by the State Pedestrian and Bicycle Coordinator; providing for inclusion of certain elements in the study; requiring the study to include an implementation plan; providing an effective date.

Pursuant to Rule 4.19, **HB 1681** as amended was placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for CS for SB 2048** was deferred.

On motion by Senator Constantine—

CS for CS for SB's 2072 and 1714—A bill to be entitled An act relating to local governments; providing definitions; providing for notice of public hearings to consider whether the local government will provide a communications service; requiring a governmental entity to consider certain factors before a communications service is provided; providing certain restrictions on revenue bonds to finance provisioning of communications services; requiring a local government to make available a written business plan; providing criteria for the business plan; setting pricing standards; providing for accounting and books and records; requiring the governmental entity to establish an enterprise fund; requiring the governmental entity to maintain separate operating and capital budgets; limiting the use of eminent-domain powers; requiring a governmental entity to hold a public hearing to consider certain factors if the business plan goals are not met; requiring compliance with certain federal and state laws; requiring local government to treat itself the same as it treats other providers of similar communications services; exempting certain governmental entities from specified provisions of the act; requiring a local government provider of communications services to follow the same prohibitions as other providers of the same services; providing an exemption for airports under certain conditions; recognizing preemption of a charter, code, or other governmental authority; providing for severability; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for CS for SB's 2072 and 1714** to **HB 1325**.

Pending further consideration of **CS for CS for SB's 2072 and 1714** as amended, on motion by Senator Constantine, by two-thirds vote **HB 1325** was withdrawn from the Committees on Communications and Public Utilities; Community Affairs; and General Government Appropriations.

On motion by Senator Constantine—

HB 1325—A bill to be entitled An act relating to local government economic development; amending s. 288.1162, F.S.; specifying criteria for certification for remaining available certification slot for professional sports franchises; providing definitions; providing for notice of public hearings to consider whether the local government will provide a communications service; requiring a governmental entity to consider certain factors before a communications service is provided; providing certain restrictions on revenue bonds to finance provisioning of communications services; requiring a local government to make available a written business plan; providing criteria for the business plan; setting pricing standards; providing for accounting and books and records; requiring the governmental entity to establish an enterprise fund; requiring the governmental entity to maintain separate operating and capital budgets; limiting the use of eminent-domain powers; requiring a governmental entity to hold a public hearing to consider certain factors if the business plan goals are not met; requiring compliance with certain federal and state laws; requiring a local government to treat itself the same as it treats other providers of similar communications services; exempting certain governmental entities from specified provisions of the act; requiring a local governmental provider of communications services to follow the same prohibitions as other providers of the same services; providing an exemption for airports under certain conditions; recognizing preemption of a charter, code, or other governmental authority; providing for severability; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB's 2072 and 1714** as amended and read the second time by title.

MOTION

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

Senator Constantine moved the following amendment which was adopted:

Amendment 1 (834670)(with title amendment)—On page 2, line 12, delete everything after the enacting clause and insert:

Section 1. *Communications services offered by governmental entities.—*

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

(a) *“Advanced service” means high-speed-Internet-access-service capability in excess of 200 kilobits per second in the upstream or the downstream direction, including any service application provided over the high-speed-access service or any information service as defined in 47 U.S.C. s. 153(20).*

(b) *“Cable service” has the same meaning as in 47 U.S.C. s. 522(6).*

(c) *“Communications services” includes any “advanced service,” “cable service,” or “telecommunications service” and shall be construed in the broadest sense.*

(d) *“Enterprise fund” means a separate fund to account for the operation of communications services by a local government, established and maintained in accordance with generally accepted accounting principles as prescribed by the Governmental Accounting Standards Board.*

(e) *“Governmental entity” means any political subdivision as defined in section 1.01, Florida Statutes, including any county, municipality, special district, school district, utility authority or other authority or any instrumentality, agency, unit or department thereof. The term does not include an independent special district created before 1970 which has been granted express legislative authority to provide a communications service and which does not sell a communications service outside its district boundaries.*

(f) *“Provide,” “providing,” “provision,” or “provisioning” means offering or supplying a communications service for a fee or other consideration to a person, including any portion of the public or private provider, but does not include service by an entity to itself or to any other governmental entity.*

(g) *“Subscriber” means a person who receives a communications service.*

(h) *“Telecommunications services” means the transmission of signs, signals, writing, images, sounds, messages, data, or other information of the user’s choosing, by wire, radio, light waves, or other electromagnetic means, without change in the form or content of the information as sent and received by the user and regardless of the facilities used, including, without limitation, wireless facilities.*

(2)(a) *A governmental entity that proposes to provide a communications service shall hold no less than two public hearings, which shall be held not less than 30 days apart. At least 30 days before the first of the two public hearings, the governmental entity must give notice of the hearing in the predominant newspaper of general circulation in the area considered for service. At least 40 days before the first public hearing, the governmental entity must electronically provide notice to the Department of Revenue and the Public Service Commission, which shall post the notice on the department’s and the commission’s website to be available to the public. The Department of Revenue shall also send the notice by United States Postal Service to the known addresses for all dealers of communications services registered with the department under chapter 202, Florida Statutes, or provide an electronic notification, if the means are available, within 10 days after receiving the notice. The notice must include the time and place of the hearings and must state that the purpose of the hearings is to consider whether the governmental entity will provide communications services. The notice must include, at a minimum, the geographic areas proposed to be served by the governmental entity and the services, if any, which the governmental entity believes are not currently being adequately provided. The notice must also state that any dealer who wishes to do so may appear and be heard at the public hearings.*

(b) *At a public hearing required by this subsection, a governmental entity must, at a minimum, consider:*

1. *Whether the service that is proposed to be provided is currently being offered in the community and, if so, whether the service is generally available throughout the community.*

2. *Whether a similar service is currently being offered in the community and, if so, whether the service is generally available throughout the community.*

3. *If the same or similar service is not currently offered, whether any other service provider proposes to offer the same or a similar service and, if so, what assurances that service provider is willing or able to offer regarding the same or similar service.*

4. *The capital investment required by the government entity to provide the communications service, the estimated realistic cost of operation and maintenance and, using a full cost-accounting method, the estimated realistic revenues and expenses of providing the service and the proposed method of financing.*

5. *The private and public costs and benefits of providing the service by a private entity or a governmental entity, including the affect on existing and future jobs, actual economic development prospects, tax-base growth, education, and public health.*

(c) *At one or more of the public hearings under this subsection, the governmental entity must make available to the public a written business plan for the proposed communications service venture containing, at a minimum:*

1. *The projected number of subscribers to be served by the venture.*
2. *The geographic area to be served by the venture.*
3. *The types of communications services to be provided.*
4. *A plan to ensure that revenues exceed operating expenses and payment of principal and interest on debt within 4 years.*
5. *Estimated capital and operational costs and revenues for the first 4 years.*
6. *Projected network modernization and technological upgrade plans, including estimated costs.*

(d) *After making specific findings regarding the factors in paragraphs (b) and (c), the governmental entity may authorize providing a communications service by a majority recorded vote and by resolution, ordinance, or other formal means of adoption.*

(e) *The governing body of a governmental entity may issue one or more bonds to finance the capital costs for facilities to provide a communications service. However:*

1. *A governmental entity may only pledge revenues in support of the issuance of any bond to finance providing a communications service:*
 - a. *Within the county in which the governmental entity is located;*
 - b. *Within an area in which the governmental entity provides electric service outside its home county under an electric service territorial agreement approved by the Public Service Commission before the effective date of this act; or*
 - c. *If the governmental entity is a municipality or special district, within its corporate limits or in an area in which the municipality or special district provides water, wastewater, electric, or natural gas service, or within an urban service area designated in a comprehensive plan, whichever is larger, unless the municipality or special district obtains the consent of the governmental entity within the boundaries of which the municipality or special district proposes to provide service. Any governmental entity from which consent is sought shall be the county or shall be located within the county in which the governmental entity is located for consent to be effective.*
2. *Revenue bonds issued in order to finance providing a communications service are not subject to the approval of the electors if the revenue bonds mature within 15 years. Revenue bonds issued to finance providing a communications service that does not mature within 15 years must be approved by the electors. The election must be conducted as specified in chapter 100, Florida Statutes.*

(f) *A governmental entity providing a communications service may not price any service below the cost of providing the service by subsidizing the communications service with moneys from rates paid by subscribers of a noncommunications services utility or from any other revenues. The cost standard for determining cross-subsidization is whether the total revenue from the service is less than the total long-run incremental cost*

of the service. Total long-run incremental cost means service-specific volume and nonvolume-sensitive costs.

(g) A governmental entity providing a communications service must comply with the requirements of section 218.32, Florida Statutes, and shall keep separate and accurate books and records, maintained in accordance with generally accepted accounting principles, of a governmental entity's communication service, and they shall be made available for any audits of the books and records conducted under applicable law. To facilitate equitable distribution of indirect costs, a local government shall develop and follow a cost-allocation plan, which is a procedure for allocating direct and indirect costs and which is generally developed in accordance with OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Government, published by the United States Office of Management and Budget.

(h) The governmental entity shall establish an enterprise fund to account for its operation of communications services.

(i) The governmental entity shall adopt separate operating and capital budgets for its communications services.

(j) A governmental entity may not use its powers of eminent domain under chapter 73, Florida Statutes, solely or primarily for the purpose of providing a communications service.

(k) The governmental entity shall conduct an annual review at a formal public meeting to consider the progress the governmental entity is making toward reaching its business plan goals and objectives for providing communication services. At the public meeting the governmental entity shall review the related revenues, operating expenses, and payment of interest on debt.

(l) If, after 4 years following the initiation of the provision of communications services by a governmental entity or 4 years after the effective date of this act, whichever is later, revenues do not exceed operating expenses and payment of principal and interest on the debt for a governmental entity's provision of communications services, no later than 60 days following the end of the 4-year period a governmental entity shall hold a public hearing at which the governmental entity shall do at least one of the following:

1. Approve a plan to cease providing communications services;
2. Approve a plan to dispose of the system the governmental entity is using to provide communications services and, accordingly, to cease providing communications services;
3. Approve a plan to create a partnership with a private entity in order to achieve operations in which revenues exceed operating expenses and payment of principal and interest on debt; or
4. Approve the continuing provision of communications services.

(3)(a) A governmental entity that provides a cable service shall comply with the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq., the regulations issued by the Federal Communications Commission under the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq., and all applicable state and federal rules and regulations, including, but not limited to, section 166.046, Florida Statutes, and those provisions of chapters 202, 212, and 337, Florida Statutes, which apply to a provider of the services.

(b) A governmental entity that provides a telecommunications service or advanced service must comply, if applicable, with chapter 364, Florida Statutes, and rules adopted by the Public Service Commission; chapter 166, Florida Statutes; and all applicable state and federal rules and regulations, including, but not limited to, those provisions of chapters 202, 212, and 337, Florida Statutes, which apply to a provider of the services.

(c) A governmental entity may not exercise its power or authority in any area, including zoning or land use regulation, to require any person, including residents of a particular development, to use or subscribe to any communication service of a governmental entity.

(d) A governmental entity shall apply its ordinances, rules, and policies, and exercise any authority under state or federal laws, including, but not limited to, those relating to the following subjects and without

discrimination as to itself when providing a communications service or to any private provider of communications services:

1. Access to public rights-of-way; and

2. Permitting, access to, use of, and payment for use of governmental entity-owned poles. The governmental entity is subject to the same terms, conditions, and fees, if any, for access to government-owned poles which the governmental entity applies to a private provider for access.

(4)(a) If a governmental entity was providing, as of April 1, 2005, advanced services, cable services, or telecommunications services, then it is not required to comply with paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), paragraph (2)(d), sub-subparagraph (2)(e)1.c., paragraph (2)(f), paragraph (2)(k), or paragraph (2)(l), in order to provide advanced services, cable services, or telecommunications services, respectively, but it must comply with and be subject to all other provisions of this section.

(b) If a governmental entity, as of April 1, 2005, had issued debt pledging revenues from an advanced service, cable service, or telecommunications service, then it is not required to comply with paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), paragraph (2)(d), sub-subparagraph (2)(e)1.c., paragraph (2)(f), paragraph (2)(k), or paragraph (2)(l), in order to provide advanced services, cable services, or telecommunications services, respectively, but it must comply with and be subject to all other provisions of this section.

(c) If a governmental entity, as of April 1, 2005, has purchased equipment specifically for the provisioning of advanced service, cable service, or telecommunication service, and, as of May 6, 2005, has authorized the providing of an advanced service, cable service, or telecommunication service, then it is not required to comply with paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), paragraph (2)(d), sub-subparagraph (2)(e)1.c., paragraph (2)(f), paragraph (2)(k), or paragraph (2)(l) in order to provide advanced service, cable service, or telecommunication service, respectively, but it must comply with and be subject to all other provisions of this section.

This subsection does not relieve a governmental entity from complying with subsection (5).

(5) Notwithstanding section 542.235, Florida Statutes, or any other law, a governmental entity that provides a communications service is subject to the same prohibitions applicable to private providers under sections 542.18 and 542.19, Florida Statutes, as it relates to providing a communications service. In addition, the exemption from complying with paragraph (2)(f), does not confer state action immunity, or any other antitrust immunity or exemption, on any governmental entity providing communications services.

(6) To ensure the safe and secure transportation of passengers and freight through an airport facility, as defined in section 159.27(17), Florida Statutes, an airport authority or other governmental entity that provides or is proposing to provide communications services only within the boundaries of its airport layout plan, as defined in section 333.01(6), Florida Statutes, to subscribers which are integral and essential to the safe and secure transportation of passengers and freight through the airport facility, is exempt from this section. An airport authority or other governmental entity that provides or is proposing to provide shared-tenant service under section 364.339, Florida Statutes, but not dial tone enabling subscribers to complete calls outside the airport layout plan, to one or more subscribers within its airport layout plan which are not integral and essential to the safe and secure transportation of passengers and freight through the airport facility is exempt from this section. An airport authority or other governmental entity that provides or is proposing to provide communications services to one or more subscribers within its airport layout plan which are not integral and essential to the safe and secure transportation of passengers and freight through the airport facility, or to one or more subscribers outside its airport layout plan, is not exempt from this section. By way of example and not limitation, the integral, essential subscribers may include airlines and emergency service entities, and the nonintegral, nonessential subscribers may include retail shops, restaurants, hotels, or rental car companies.

(7) This section does not alter or affect any provision in the charter, code, or other governing authority of a governmental entity that impose additional or different requirements on provision of communications service by a governmental entity. Any such provisions shall apply in addition to the applicable provisions in this section.

Section 2. *If any provision of section 1 of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.*

And the title is amended as follows:

On page 1, line 1, delete everything before the enacting clause and insert: A bill to be entitled An act relating to local governments; providing definitions; providing for notice of public hearings to consider whether the local government will provide a communications service; requiring a governmental entity to take certain action before a communications service is provided; providing certain restrictions on revenue bonds to finance provisioning of communications services; requiring a local government to make available a written business plan; providing criteria for the business plan; setting pricing standards; providing for accounting and books and records; requiring the governmental entity to establish an enterprise fund; requiring the governmental entity to maintain separate operating and capital budgets; limiting the use of eminent-domain powers; requiring a governmental entity to hold a public hearing to consider certain factors if the business plan goals are not met; requiring compliance with certain federal and state laws; requiring local government to treat itself the same as it treats other providers of similar communications services; exempting certain governmental entities from specified provisions of the act; requiring a local government provider of communications services to follow the same prohibitions as other providers of the same services; providing an exemption for airports under certain conditions; recognizing preemption of a charter, code, or other governmental authority; providing for severability; providing for repeal; providing an effective date.

Pursuant to Rule 4.19, **HB 1325** as amended was placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for CS for SB 1174**, **CS for SB 2564**, **CS for SB 2566**, **CS for SB 2568**, **CS for CS for SB 1488** and **CS for CS for SB 1478** was deferred.

On motion by Senator Klein, by two-thirds vote **HB 885** was withdrawn from the Committees on Education; and Children and Families.

On motion by Senator Klein—

HB 885—A bill to be entitled An act relating to regional autism centers; amending s. 1004.55, F.S.; creating an additional regional autism center in the state; reducing the number of counties within the service areas of two existing regional autism centers; providing for consistency in service delivery; encouraging each constituency board to raise funds; providing a prohibition; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1716** and read the second time by title.

Pursuant to Rule 4.19, **HB 885** was placed on the calendar of Bills on Third Reading.

CS for CS for SJR 2090—A joint resolution proposing an amendment to Section 1 of Article IX of the State Constitution, relating to public education, to amend the class-size requirements for students in grades prekindergarten through 12 and to prescribe minimum salary standards for public school teachers, and the creation of Section 26 of Article XII of the State Constitution to prescribe a schedule for such amendment.

—was read the second time by title.

On motion by Senator Lynn, further consideration of **CS for CS for SJR 2090** was deferred.

Consideration of **SB 2000** was deferred.

On motion by Senator Dockery—

CS for SB 1730—A bill to be entitled An act relating to environmental permitting programs; creating s. 373.4143, F.S.; providing legislative intent; creating s. 373.4144, F.S.; providing for the consolidation of federal and state wetland permitting programs; providing duties of the Department of Environmental Protection; requiring a report to the Legislature and coordination with the Florida Congressional Delegation; amending s. 373.4145, F.S., and reenacting subsections (1)-(4) of that section, to continue the interim part IV permitting program for the Northwest Florida Water Management District; providing for the future repeal of the interim program; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 1730** to **HB 759**.

Pending further consideration of **CS for SB 1730** as amended, on motion by Senator Dockery, by two-thirds vote **HB 759** was withdrawn from the Committees on Environmental Preservation; and General Government Appropriations.

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

HB 759—A bill to be entitled An act relating to environmental permitting programs; amending s. 373.414, F.S., relating to additional criteria for activities in surface waters and wetlands; revising a date relating to an exemption from specified requirements; providing for submission of financial responsibility prior to the commencement of phosphate mining operations; providing for review of financial responsibility; providing mechanisms for providing financial responsibility; providing exclusions; clarifying intent; creating s. 373.4143, F.S.; providing legislative intent; creating s. 373.4144, F.S.; providing for the consolidation of federal and state wetland permitting programs; providing duties of the Department of Environmental Protection; requiring a report to the Legislature and coordination with the Florida Congressional Delegation; amending s. 373.4145, F.S., and reenacting subsections (1)-(4), to continue the interim part IV permitting program for the Northwest Florida Water Management District; providing for future repeal of such interim program; amending s. 10, ch. 2003-423, Laws of Florida; revising the date by which the Peace River Basin resource management plan must be submitted; providing an effective date.

—a companion measure, was substituted for **CS for SB 1730** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 759** was placed on the calendar of Bills on Third Reading.

On motion by Senator Dockery—

CS for CS for SB 486—A bill to be entitled An act relating to phosphate mine reclamation; amending s. 378.034, F.S.; deleting an obsolete provision relating to the use of reclamation funds; amending s. 378.035, F.S.; deleting an obsolete provision authorizing the Department of Environmental Protection to expend certain funds; amending s. 373.414, F.S.; requiring financial responsibility for wetlands mitigation; specifying the financial responsibility demonstration for permitted activities occurring over a period of 3 years or more of mining activities; extending the due date of the Peace River Basin study; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for CS for SB 486** was placed on the calendar of Bills on Third Reading.

On motion by Senator Argenziano—

CS for CS for SB 1912—A bill to be entitled An act relating to insurance agents and agencies; amending s. 624.317, F.S.; including insurance agencies among entities the Department of Financial Services is authorized to investigate; amending s. 624.318, F.S.; providing for electronic scanning in the course of investigations and examinations; amending s. 624.501, F.S.; clarifying a license fee; amending s. 626.015, F.S.; redefining the term “home state”; defining the term “resident”;

amending s. 626.016, F.S.; including insurance agencies among entities subject to regulation by the Chief Financial Officer; amending s. 626.025, F.S.; correcting cross-references; amending s. 626.112, F.S.; delaying the effective date by which agencies must obtain a license; providing that an agency may file for registration in lieu of licensure, under specified conditions; imposing a fine on any agency that fails to timely apply for licensure or registration; deleting certain agency licensure requirement provisions; amending s. 626.171, F.S.; specifying licensure and registration application requirements for insurance entities other than insurance agencies; deleting a provision applying to insurance agency license application requirements; amending s. 626.172, F.S.; revising insurance agency licensure application requirements; providing procedures and limitations; providing duties of the department; amending s. 626.221, F.S.; revising examination requirements; amending s. 626.2815, F.S.; revising continuing education requirements; amending ss. 626.292 and 626.321, F.S.; correcting cross-references, to conform; amending s. 626.342, F.S.; including insurance agencies under provisions prohibiting furnishing supplies to certain unlicensed agents and imposing civil liability under certain circumstances; amending s. 626.382, F.S.; providing for renewal of licenses; amending s. 626.451, F.S.; revising requirements for appointment; amending s. 626.536, F.S.; including insurance agencies under an action reporting requirement; amending s. 626.561, F.S.; including insurance agencies under provisions providing funds reporting and accounting requirements and imposing criminal penalties; amending s. 626.572, F.S.; including insurance agencies under provision prohibiting rebating under certain circumstances; amending s. 626.601, F.S.; including insurance agencies under provisions authorizing the department to inquire into improper conduct; creating s. 626.602, F.S.; authorizing the department to disapprove the use of certain names under certain circumstances; amending s. 626.6115, F.S.; providing an additional ground for the department to take compulsory adverse insurance agency license actions; providing that the existence of grounds for adverse action against a licensed agency does not constitute grounds for adverse action against another licensed agency; amending s. 626.6215, F.S.; providing an additional ground for the department to take discretionary adverse insurance agency license actions; providing that the existence of grounds for adverse action against a licensed agency does not constitute grounds for adverse action against another licensed agency; amending s. 626.747, F.S.; revising agent requirements for branch agencies to include life or health agents; amending s. 626.621, F.S.; revising criteria for the department's refusal, suspension or revocation of a license or appointment; amending s. 626.641, F.S.; providing requirements for reinstatement of a previously suspended license or appointment; revising criteria for reapplication and requalification for a previously revoked license or appointment; amending s. 626.7351, F.S.; revising the qualifications for a customer representative's license; amending ss. 626.7355 and 626.8411, F.S.; deleting cross-references, to conform; creating s. 626.84201, F.S.; providing for the issuance of a nonresident title insurance agent license; amending s. 648.50, F.S.; revising the persons whose license or appointment may be revoked or suspended when a bail bond's license or appointment is revoked or suspended; repealing s. 626.592, F.S., relating to primary agents; creating s. 624.1275, F.S.; providing a restriction for state agencies or political subdivisions from preventing a licensed agent from responding to a bid or negotiation for an insurance product; providing an effective date.

—was read the second time by title.

Senator Argenziano moved the following amendment which was adopted:

Amendment 1 (500578)—On page 14, line 13, after the period (.) insert: *Fingerprints shall be processed in accordance with s. 624.34.*

Pursuant to Rule 4.19, **CS for CS for SB 1912** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

The Senate resumed consideration of—

CS for CS for SB's 1944 and 2008—A bill to be entitled An act relating to ethics for public officers and employees; amending s. 104.31, F.S.; prohibiting employees of the state and its political subdivisions from participating in a political campaign during certain time periods; amending s. 112.313, F.S.; prohibiting certain disclosures by a former public officer, agency employee, or local government attorney; redefining

the term “employee” to include certain other-personal-services employees for certain postemployment activities; providing an exemption from provisions prohibiting conflicts in employment to a person who, after serving on an advisory board, files a statement with the Commission on Ethics relating to a bid or submission; amending s. 112.3144, F.S.; specifying how assets valued in excess of \$1,000 are to be reported by a reporting individual; amending s. 112.3145, F.S.; requiring that a delinquency notice be sent to certain officeholders by certified mail, return receipt requested; revising certain filing deadlines; amending s. 112.3147, F.S.; deleting certain provisions relating to reporting the value of assets; amending s. 112.3148, F.S.; providing requirements for persons who have left office or employment as to filing a report relating to gifts; amending s. 112.3149, F.S.; requiring that a report of honoraria by a person who left office or employment be filed by a specified date; amending s. 112.317, F.S.; authorizing the commission to recommend a restitution penalty be paid to the agency or the General Revenue Fund; authorizing the Attorney General to recover costs for filing suit to collect penalties and fines; deleting provisions imposing a penalty for the disclosure of information concerning a complaint or an investigation; amending 112.3185, F.S.; providing additional standards for state agency employees relating to procurement of goods and services by a state agency; authorizing an employee whose position was eliminated to engage in certain contractual activities; prohibiting former employees from certain specified activities; amending s. 112.3215, F.S.; requiring the commission to adopt a rule detailing the grounds for waiving a fine and the procedures when a lobbyist fails to timely file his or her report; requiring automatic suspension of a lobbyist's registration if the fine is not timely paid; amending s. 112.322, F.S.; authorizing travel and per diem expenses for certain witnesses; amending s. 112.324, F.S.; providing procedures for the commission to handle complaints of violations; amending s. 914.21, F.S.; redefining the terms “official investigation” and “official proceeding,” for purposes of provisions relating to tampering with witnesses, to include an investigation by the Commission on Ethics; providing an effective date.

—which was previously considered and amended this day.

Pending further consideration of **CS for CS for SB's 1944 and 2008** as amended, on motion by Senator Posey, by two-thirds vote **HB 1377** was withdrawn from the Committees on Community Affairs; Governmental Oversight and Productivity; and Rules and Calendar.

On motion by Senator Posey—

HB 1377—A bill to be entitled An act relating to ethics; amending s. 104.31, F.S.; prohibiting state or political subdivision employees from participating in political campaigns during on-duty hours or certain other hours; amending s. 112.313, F.S.; applying the prohibition on disclosure or use of certain information to former public officers, public employees, and local government attorneys; providing an exception to such prohibition; revising postemployment restrictions to apply to other-personal-services temporary employees; exempting certain agency employees from postemployment restrictions; providing for certain disclosure statements to be filed with the Commission on Ethics instead of the Department of State; revising a prohibition on lobbying by former local officers to preclude representation before the government body or agency an officer has served; providing applicability; amending s. 112.3144, F.S.; providing for reporting of assets held by joint tenancy, joint tenancy with right of survivorship, and partnership and reporting of certain liabilities; amending s. 112.3145, F.S.; requiring the commission to send delinquency notices with return receipt requested; amending s. 112.3147, F.S.; requiring an attestation with respect to information provided on required forms; deleting a redundant provision; amending s. 112.3148, F.S.; requiring gift disclosure forms of individuals who left office or employment during the calendar year to be filed by a date certain; allowing quarterly gift disclosure forms to be considered timely filed if postmarked on or before the due date; amending s. 112.3149, F.S.; requiring gift disclosure statements of individuals who left office or employment during the calendar year to be filed by a date certain; amending s. 112.317, F.S.; authorizing the commission to recommend restitution be paid to the agency damaged by the violation or to the General Revenue Fund; authorizing the Attorney General to collect certain costs and fees incurred in bringing certain actions; deleting a provision rendering a breach of confidentiality of an ethics proceeding a misdemeanor; amending s. 112.3185, F.S.; providing for certain former agency employees to be employed by or have a contractual relationship with certain business entities; prohibiting a former agency employee from representing a client before the employee's former agency in certain matters; amending s. 112.3215, F.S.; revising the commission's

rulemaking authority regarding appeals of certain fines; providing for automatic suspended registration for lobbyists who fail to timely pay a certain fine; providing an exception; requiring the commission to provide written notice to any lobbyist whose registration is automatically suspended; amending s. 112.322, F.S.; revising provisions relating to payment of witnesses; amending s. 914.21, F.S.; revising definitions; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB's 1944 and 2008** as amended and read the second time by title.

MOTION

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

Senator Posey moved the following amendment which was adopted:

Amendment 1 (305140)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Present subsections (2) and (3) of section 104.31, Florida Statutes, are redesignated as subsections (3) and (4), respectively, and a new subsection (2) is added to that section, to read:

104.31 Political activities of state, county, and municipal officers and employees.—

(2) *An employee of the state or any political subdivision may not participate in any political campaign for an elective office while on duty or within any period of time during which the employee is expected to perform services for which he or she receives compensation from the state or a political subdivision.*

Section 2. Subsection (8), paragraph (a) of subsection (9), paragraph (b) of subsection (12), and subsection (14) of section 112.313, Florida Statutes, are amended to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—

(8) **DISCLOSURE OR USE OF CERTAIN INFORMATION.**—No *current or former* public officer, employee of an agency, or local government attorney shall disclose or use information not available to members of the general public and gained by reason of his or her official position, *except for information relating exclusively to governmental practices*, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

(9) **POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.**—

(a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.

2. As used in this paragraph:

a. “Employee” means:

(I) Any person employed in the executive or legislative branch of government holding a position in the Senior Management Service as defined in s. 110.402 or any person holding a position in the Selected Exempt Service as defined in s. 110.602 or any person having authority over policy or procurement employed by the Department of the Lottery.

(II) The Auditor General, the director of the Office of Program Policy Analysis and Government Accountability, the Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives.

(III) The executive director of the Legislative Committee on Intergovernmental Relations and the executive director and deputy executive director of the Commission on Ethics.

(IV) An executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant,

analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Regents; and the president, vice presidents, and deans of each state university.

(VI) Any person, *including an other-personal-services employee*, having the power normally conferred upon the positions referenced in this sub-subparagraph.

b. “Appointed state officer” means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. “State agency” means an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises plenary budgetary and statutory control.

3. No member of the Legislature, appointed state officer, or state-wide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit.

4. No agency employee shall personally represent another person or entity for compensation before the agency with which he or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

5. Any person violating this paragraph shall be subject to the penalties provided in s. 112.317 and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

6. This paragraph is not applicable to:

a. A person employed by the Legislature or other agency prior to July 1, 1989;

b. A person who was employed by the Legislature or other agency on July 1, 1989, whether or not the person was a defined employee on July 1, 1989;

c. A person who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994;

d. A person who has reached normal retirement age as defined in s. 121.021(29), and who has retired under the provisions of chapter 121 by July 1, 1991; ~~or~~

e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that office on or after January 1, 1995; *or*—

f. An agency employee whose position was transferred from the Career Service System to the Selected Exempt Service System under chapter 2001-43, Laws of Florida.

(12) **EXEMPTION.**—The requirements of subsections (3) and (7) as they pertain to persons serving on advisory boards may be waived in a particular instance by the body which appointed the person to the advisory board, upon a full disclosure of the transaction or relationship to the appointing body prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of that body. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing person and full disclosure of the transaction or relationship by the appointee to the appointing person. In addition, no person shall be held in violation of subsection (3) or subsection (7) if:

(b) The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:

1. The official or the official's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder;

2. The official or the official's spouse or child has in no way used or attempted to use the official's influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and

3. The official, prior to or at the time of the submission of the bid, has filed a statement with the *Commission on Ethics Department of State*, if the official is a state officer or employee, or with the supervisor of elections of the county in which the agency has its principal office, if the official is an officer or employee of a political subdivision, disclosing the official's interest, or the interest of the official's spouse or child, and the nature of the intended business.

(14) LOBBYING BY FORMER LOCAL OFFICERS; PROHIBITION.—A person who has been elected to any county, municipal, special district, or school district office may not personally represent another person or entity for compensation before the *government governing body or agency* of which the person was an officer for a period of 2 years after vacating that office.

Section 3. Present subsections (4), (5), and (6) of section 112.3144, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, and a new subsection (4) is added to that section, to read:

112.3144 Full and public disclosure of financial interests.—

(4)(a) *With respect to reporting assets valued in excess of \$1,000 on forms prescribed under this section which the reporting individual holds jointly with another person, the amount reported shall be based on the reporting individual's legal percentage of ownership in the property. However, assets that are held jointly, with right of survivorship, must be reported at 100 percent of the value of the asset. For purposes of this subsection, a reporting individual is deemed to own a percentage of a partnership which is equal to the reporting individual's interest in the capital or equity of the partnership.*

(b)1. *With respect to reporting liabilities valued in excess of \$1,000 on forms prescribed under this section for which the reporting individual is jointly and severally liable, the amount reported shall be based on the reporting individual's percentage of liability rather than the total amount of the liability. However, liability for a debt that is secured by property owned by the reporting individual but that is held jointly, with right of survivorship, must be reported at 100 percent of the total amount owed.*

2. *A separate section of the form shall be created to provide for the reporting of the amounts of joint and several liability of the reporting individual not otherwise reported in subparagraph 1.*

Section 4. Paragraph (c) of subsection (6) of section 112.3145, Florida Statutes, is amended to read:

112.3145 Disclosure of financial interests and clients represented before agencies.—

(6) Forms for compliance with the disclosure requirements of this section and a current list of persons subject to disclosure shall be created by the commission and provided to each supervisor of elections. The commission and each supervisor of elections shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(c) Not later than 30 days after July 1 of each year, the commission and each supervisor of elections shall determine which persons required to file a statement of financial interests in their respective offices have failed to do so and shall send delinquency notices by certified mail, *return receipt requested*, to these ~~such~~ persons. Each notice shall state that a grace period is in effect until September 1 of the current year; that no investigative or disciplinary action based upon the delinquency will be taken by the agency head or commission if the statement is filed by September 1 of the current year; that, if the statement is not filed by September 1 of the current year, a fine of \$25 for each day late will be

imposed, up to a maximum penalty of \$1,500; for notices sent by a supervisor of elections, that he or she is required by law to notify the commission of the delinquency; and that, if upon the filing of a sworn complaint the commission finds that the person has failed to timely file the statement within 60 days after September 1 of the current year, such person will also be subject to the penalties provided in s. 112.317.

Section 5. Section 112.3147, Florida Statutes, is amended to read:

112.3147 Forms.—

(1) All information required to be furnished by ss. 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149 and by s. 8, Art. II of the State Constitution shall be on forms prescribed by the Commission on Ethics.

(2)(a) ~~With respect to reporting assets valued in excess of \$1,000 on forms prescribed pursuant to s. 112.3144 which the reporting individual holds jointly with another person, the amount reported shall be based on the reporting individual's legal percentage of ownership in the property, except that assets held jointly with the reporting individual's spouse shall be reported at 100 percent of the value of the asset. For purposes of this subsection, a reporting individual is deemed to own an interest in a partnership which corresponds to the reporting individual's interest in the capital or equity of the partnership.~~

(b)1. ~~With respect to reporting liabilities valued in excess of \$1,000 on forms prescribed pursuant to s. 112.3144 for which the reporting individual is jointly and severally liable, the amount reported shall be based upon the reporting individual's percentage of liability rather than the total amount of the liability, except, a joint and several liability with the reporting individual's spouse for a debt which relates to property owned by both as tenants by the entirety shall be reported at 100 percent of the total amount owed.~~

2. ~~A separate section of the form shall be created to provide for the reporting of the amounts of joint and several liability of the reporting individual not otherwise reported in paragraph (a).~~

Section 6. Paragraph (d) of subsection (6) and subsection (8) of section 112.3148, Florida Statutes, are amended to read:

112.3148 Reporting and prohibited receipt of gifts by individuals filing full or limited public disclosure of financial interests and by procurement employees.—

(6)

(d) No later than July 1 of each year, each reporting individual or procurement employee shall file a statement listing each gift having a value in excess of \$100 received by the reporting individual or procurement employee, either directly or indirectly, from a governmental entity or a direct-support organization specifically authorized by law to support a governmental entity. The statement shall list the name of the person providing the gift, a description of the gift, the date or dates on which the gift was given, and the value of the total gifts given during the calendar year for which the report is made. The reporting individual or procurement employee shall attach to ~~the such~~ statement any report received by him or her in accordance with paragraph (c), which report shall become a public record when filed with the statement of the reporting individual or procurement employee. The reporting individual or procurement employee may explain any differences between the report of the reporting individual or procurement employee and the attached reports. The annual report filed by a reporting individual shall be filed with the financial disclosure statement required by either s. 8, Art. II of the State Constitution or s. 112.3145, as applicable to the reporting individual. The annual report filed by a procurement employee shall be filed with the Commission on Ethics. *The report filed by a reporting individual or procurement employee who left office or employment during the calendar year covered by the report shall be filed by July 1 of the year after leaving office or employment at the same location as his or her final financial disclosure statement or, in the case of a former procurement employee, with the Commission on Ethics.*

(8)(a) Each reporting individual or procurement employee shall file a statement with the Commission on Ethics *not later than* ~~on~~ the last day of each calendar quarter, for the previous calendar quarter, containing a list of gifts which he or she believes to be in excess of \$100 in value, if any, accepted by him or her, for which compensation was not provided

by the donee to the donor within 90 days of receipt of the gift to reduce the value to \$100 or less, except the following:

1. Gifts from relatives.
2. Gifts prohibited by subsection (4) or s. 112.313(4).
3. Gifts otherwise required to be disclosed by this section.

(b) The statement shall include:

1. A description of the gift, the monetary value of the gift, the name and address of the person making the gift, and the dates thereof. If any of these facts, other than the gift description, are unknown or not applicable, the report shall so state.

2. A copy of any receipt for such gift provided to the reporting individual or procurement employee by the donor.

(c) The statement may include an explanation of any differences between the reporting individual's or procurement employee's statement and the receipt provided by the donor.

(d) The reporting individual's or procurement employee's statement shall be sworn to by such person as being a true, accurate, and total listing of all such gifts.

(e) *Statements must be filed not later than 5 p.m. of the due date. However, any statement that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, constitutes proof of mailing in a timely manner.*

(f)(e) If a reporting individual or procurement employee has not received any gifts described in paragraph (a) during a calendar quarter, he or she is not required to file a statement under this subsection for that calendar quarter.

Section 7. Subsection (6) of section 112.3149, Florida Statutes, is amended to read:

112.3149 Solicitation and disclosure of honoraria.—

(6) A reporting individual or procurement employee who receives payment or provision of expenses related to any honorarium event from a person who is prohibited by subsection (4) from paying an honorarium to a reporting individual or procurement employee shall publicly disclose on an annual statement the name, address, and affiliation of the person paying or providing the expenses; the amount of the honorarium expenses; the date of the honorarium event; a description of the expenses paid or provided on each day of the honorarium event; and the total value of the expenses provided to the reporting individual or procurement employee in connection with the honorarium event. The annual statement of honorarium expenses shall be filed by July 1 of each year for those such expenses received during the previous calendar year. The reporting individual or procurement employee shall attach to the annual statement a copy of each statement received by him or her in accordance with subsection (5) regarding honorarium expenses paid or provided during the calendar year for which the annual statement is filed. *The Such attached statement shall become a public record upon the filing of the annual report. The annual statement of a reporting individual shall be filed with the financial disclosure statement required by either s. 8, Art. II of the State Constitution or s. 112.3145, as applicable to the reporting individual. The annual statement of a procurement employee shall be filed with the Commission on Ethics. The statement filed by a reporting individual or procurement employee who left office or employment during the calendar year covered by the statement shall be filed by July 1 of the year after leaving office or employment at the same location as his or her final financial disclosure statement or, in the case of a former procurement employee, with the Commission on Ethics.*

Section 8. Subsections (1), (2), (6), (7), and (8) of section 112.317, Florida Statutes, is amended to read:

112.317 Penalties.—

(1) Violation of any provision of this part, including, but not limited to, any failure to file any disclosures required by this part or violation

of any standard of conduct imposed by this part, or violation of any provision of s. 8, Art. II of the State Constitution, in addition to any criminal penalty or other civil penalty involved, shall, ~~under pursuant~~ *to* applicable constitutional and statutory procedures, constitute grounds for, and may be punished by, one or more of the following:

(a) In the case of a public officer:

1. Impeachment.
2. Removal from office.
3. Suspension from office.
4. Public censure and reprimand.
5. Forfeiture of no more than one-third salary per month for no more than 12 months.
6. A civil penalty not to exceed \$10,000.

7. Restitution of any pecuniary benefits received because of the violation committed. *The commission may recommend that the restitution penalty be paid to the agency of which the public officer was a member or to the General Revenue Fund.*

(b) In the case of an employee or a person designated as a public officer by this part who otherwise would be deemed to be an employee:

1. Dismissal from employment.
2. Suspension from employment for not more than 90 days without pay.
3. Demotion.
4. Reduction in salary level.
5. Forfeiture of no more than one-third salary per month for no more than 12 months.
6. A civil penalty not to exceed \$10,000.

7. Restitution of any pecuniary benefits received because of the violation committed. *The commission may recommend that the restitution penalty be paid to the agency by which the public employee was employed, or of which the officer was deemed to be an employee, or to the General Revenue Fund.*

8. Public censure and reprimand.

(c) In the case of a candidate who violates the provisions of this part or s. 8(a) and (i), Art. II of the State Constitution:

1. Disqualification from being on the ballot.
2. Public censure.
3. Reprimand.
4. A civil penalty not to exceed \$10,000.

(d) In the case of a former public officer or employee who has violated a provision applicable to former officers or employees or whose violation occurred ~~before the~~ *prior to such* officer's or employee's leaving public office or employment:

1. Public censure and reprimand.
2. A civil penalty not to exceed \$10,000.
3. Restitution of any pecuniary benefits received because of the violation committed. *The commission may recommend that the restitution penalty be paid to the agency of the public officer or employee or to the General Revenue Fund.*

(2) In any case in which the commission finds a violation of this part or of s. 8, Art. II of the State Constitution and *the proper disciplinary official or body under s. 112.324 imposes recommends* a civil penalty or restitution penalty, the Attorney General shall bring a civil action to recover such penalty. No defense may be raised in the civil action to

enforce the civil penalty or order of restitution that could have been raised by judicial review of the administrative findings and recommendations of the commission by certiorari to the district court of appeal. *The Attorney General shall collect any costs, attorney's fees, expert witness fees, or other costs of collection incurred in bringing the action.*

~~(6) Any person who willfully discloses, or permits to be disclosed, his or her intention to file a complaint, the existence or contents of a complaint which has been filed with the commission, or any document, action, or proceeding in connection with a confidential preliminary investigation of the commission, before such complaint, document, action, or proceeding becomes a public record as provided herein commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

(6)(7) In any case in which the commission finds probable cause to believe that a complainant has committed perjury in regard to any document filed with, or any testimony given before, the commission, it shall refer such evidence to the appropriate law enforcement agency for prosecution and taxation of costs.

(7)(8) In any case in which the commission determines that a person has filed a complaint against a public officer or employee with a malicious intent to injure the reputation of such officer or employee by filing the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of this part, the complainant shall be liable for costs plus reasonable attorney's fees incurred in the defense of the person complained against, including the costs and reasonable attorney's fees incurred in proving entitlement to and the amount of costs and fees. If the complainant fails to pay such costs and fees voluntarily within 30 days following such finding by the commission, the commission shall forward such information to the Department of Legal Affairs, which shall bring a civil action in a court of competent jurisdiction to recover the amount of such costs and fees awarded by the commission.

Section 9. Section 112.3185, Florida Statutes, is amended to read:

112.3185 *Additional standards for state agency employees Contractual services.*—

(1) For the purposes of this section:

(a) "Contractual services" shall be defined as set forth in chapter 287.

(b) "Agency" means any state officer, department, board, commission, or council of the executive or judicial branch of state government and includes the Public Service Commission.

(2) No agency employee who participates through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services shall become or be, while an agency employee, the employee of a person contracting with the agency by whom the employee is employed.

(3) No agency employee shall, after retirement or termination, have or hold any employment or contractual relationship with any business entity other than an agency in connection with any contract in which the agency employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, or investigation while an officer or employee. *When the agency employee's position is eliminated and his or her duties are performed by the business entity, this subsection does not prohibit him or her from employment or contractual relationship with the business entity if the employee's participation in the contract was limited to recommendation, rendering of advice, or investigation and if the agency head determines that the best interests of the state will be served thereby and provides prior written approval for the particular employee.*

(4) No agency employee shall, within 2 years after retirement or termination, have or hold any employment or contractual relationship with any business entity other than an agency in connection with any contract for contractual services which was within his or her responsibility while an employee. *If the agency employee's position is eliminated and his or her duties are performed by the business entity, the provisions of this subsection may be waived by the agency head through prior written*

approval for a particular employee if the agency head determines that the best interests of the state will be served thereby.

(5) The sum of money paid to a former agency employee during the first year after the cessation of his or her responsibilities, by the agency with whom he or she was employed, for contractual services provided to the agency, shall not exceed the annual salary received on the date of cessation of his or her responsibilities. ~~The provisions of This subsection may be waived by the agency head for a particular contract if the agency head determines that such waiver will result in significant time or cost savings for the state.~~

(6) *No agency employee shall, after retirement or termination, represent or advise another person or entity, except the state, in any matter in which the employee participated personally in his or her official capacity through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while an employee. The term "matter" includes any judicial or other proceeding, application, request for a ruling, or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular action involving a specific party or parties.*

(7)(6) No agency employee acting in an official capacity shall directly or indirectly procure contractual services for his or her own agency from any business entity of which a relative is an officer, partner, director, or proprietor or in which ~~the~~ such officer or employee or his or her spouse or child, or any combination of them, has a material interest.

(8)(7) A violation of any provision of this section is punishable in accordance with s. 112.317.

(9)(8) This section is not applicable to any employee of the Public Service Commission who was so employed on or before December 31, 1994.

Section 10. Subsection (1) of section 112.321, Florida Statutes, is amended to read:

112.321 Membership, terms; travel expenses; staff.—

(1) The commission shall be composed of nine members. Five of these members shall be appointed by the Governor, no more than three of whom shall be from the same political party, subject to confirmation by the Senate. One member appointed by the Governor shall be a former city or county official and may be a former member of a local planning or zoning board which has only advisory duties. Two members shall be appointed by the Speaker of the House of Representatives, and two members shall be appointed by the President of the Senate. Neither the Speaker of the House of Representatives nor the President of the Senate shall appoint more than one member from the same political party. Of the nine members of the Commission, no more than five members shall be from the same political party at any one time. No member may hold any public employment. *An individual who qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215 or pursuant to any local government charter or ordinance may not serve as a member of the commission, except that this prohibition does not apply to an individual who is a member of the commission on July 1, 2005, until the expiration of his or her current term. A member of the commission may not lobby any state or local governmental entity as provided in s. 11.045 or s. 112.3215 or as provided by any local government charter or ordinance, except that this prohibition does not apply to an individual who is a member of the commission on July 1, 2005, until the expiration of his or her current term.* All members shall serve 2-year terms. No member shall serve more than two full terms in succession. Any member of the commission may be removed for cause by majority vote of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.

Section 11. Paragraph (f) of subsection (5) of section 112.3215, Florida Statutes, is amended to read:

112.3215 Lobbyists before the executive branch or the Constitution Revision Commission; registration and reporting; investigation by commission.—

(5)

(f) The commission shall provide by rule *the grounds for waiving a fine and the procedures a procedure* by which a lobbyist who fails to

timely file a report shall be notified and assessed fines *and the procedure for appealing the fines*. The rule shall provide for the following:

1. Upon determining that the report is late, the person designated to review the timeliness of reports shall immediately notify the lobbyist as to the failure to timely file the report and that a fine is being assessed for each late day. The fine shall be \$50 per day per report for each late day up to a maximum of \$5,000 per late report.

2. Upon receipt of the report, the person designated to review the timeliness of reports shall determine the amount of the fine due based upon the earliest of the following:

- a. When a report is actually received by the lobbyist registration and reporting office.
- b. When the report is postmarked.
- c. When the certificate of mailing is dated.
- d. When the receipt from an established courier company is dated.

3. Such fine shall be paid within 30 days after the notice of payment due is transmitted by the Lobbyist Registration Office, unless appeal is made to the commission. The moneys shall be deposited into the Executive Branch Lobby Registration Trust Fund.

4. A fine shall not be assessed against a lobbyist the first time any reports for which the lobbyist is responsible are not timely filed. However, to receive the one-time fine waiver, all reports for which the lobbyist is responsible must be filed within 30 days after the notice that any reports have not been timely filed is transmitted by the Lobbyist Registration Office. A fine shall be assessed for any subsequent late-filed reports.

5. Any lobbyist may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the commission, which shall have the authority to waive the fine in whole or in part for good cause shown. Any such request shall be made within 30 days after the notice of payment due is transmitted by the Lobbyist Registration Office. In such case, the lobbyist shall, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission.

6. The person designated to review the timeliness of reports shall notify the commission of the failure of a lobbyist to file a report after notice or of the failure of a lobbyist to pay the fine imposed. *The registration of a lobbyist who fails to timely pay a fine is automatically suspended until the fine is paid, unless an appeal of the fine is pending before the commission. The commission shall provide a written suspension notice to each lobbyist whose registration has been automatically suspended.*

7. Notwithstanding any provision of chapter 120, any fine imposed under this subsection that is not waived by final order of the commission and that remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the lobbyist's appeal shall be collected by the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department may assign the collection of such fine to a collection agent as provided in s. 17.20.

Section 12. Subsection (4) of section 112.322, Florida Statutes, is amended to read:

112.322 Duties and powers of commission.—

(4) The commission has the power to subpoena, audit, and investigate. The commission may subpoena witnesses and compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other items relevant to the performance of the duties of the commission or to the exercise of its powers. The commission may delegate to its investigators the authority to administer oaths and affirmations. The commission may delegate the authority to issue subpoenas to its chair, and may authorize its employees to serve any subpoena issued under this section. In the case of a refusal to obey a subpoena issued to any person, the commission may make application to any circuit court of this state which shall have jurisdiction to order the witness to appear before

the commission and to produce evidence, if so ordered, or to give testimony touching on the matter in question. Failure to obey the order may be punished by the court as contempt. Witnesses shall be paid mileage and witnesses fees as authorized for witnesses in civil cases, *except that a witness who is required to travel outside the county of his or her residence to testify is entitled to per diem and travel expenses at the same rate provided for state employees under s. 112.061, to be paid after the witness appears.*

Section 13. Subsections (3) and (4) of section 914.21, Florida Statutes, are amended to read:

914.21 Definitions.—As used in ss. 914.22-914.24, the term:

(3) “Official investigation” means any investigation instituted by a law enforcement agency or prosecuting officer of the state or a political subdivision of the state *or the Commission on Ethics*.

(4) “Official proceeding” means:

- (a) A proceeding before a judge or court or a grand jury;
- (b) A proceeding before the Legislature; or
- (c) A proceeding before a federal agency which is authorized by law.
- (d) *A proceeding before the Commission on Ethics.*

Section 14. This act shall take effect October 1, 2005.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to ethics for public officers and employees; amending s. 104.31, F.S.; prohibiting employees of the state and its political subdivisions from participating in a political campaign during certain time periods; amending s. 112.313, F.S.; prohibiting certain disclosures by a former public officer, agency employee, or local government attorney; redefining the term “employee” to include certain other-personal-services employees for certain postemployment activities; providing an exemption from provisions prohibiting conflicts in employment to a person who, after serving on an advisory board, files a statement with the Commission on Ethics relating to a bid or submission; amending s. 112.3144, F.S.; specifying how assets valued in excess of \$1,000 are to be reported by a reporting individual; amending s. 112.3145, F.S.; requiring that a delinquency notice be sent to certain officeholders by certified mail, return receipt requested; revising certain filing deadlines; amending s. 112.3147, F.S.; deleting certain provisions relating to reporting the value of assets; amending s. 112.3148, F.S.; providing requirements for persons who have left office or employment as to filing a report relating to gifts; amending s. 112.3149, F.S.; requiring that a report of honoraria by a person who left office or employment be filed by a specified date; amending s. 112.317, F.S.; authorizing the commission to recommend a restitution penalty be paid to the agency or the General Revenue Fund; authorizing the Attorney General to recover costs for filing suit to collect penalties and fines; deleting provisions imposing a penalty for the disclosure of information concerning a complaint or an investigation; amending 112.3185, F.S.; providing additional standards for state agency employees relating to procurement of goods and services by a state agency; authorizing an employee whose position was eliminated to engage in certain contractual activities; prohibiting former employees from certain specified activities; amending s. 112.321, F.S.; prohibiting an individual who qualifies as a lobbyist from serving on the commission; prohibiting a member of the commission from lobbying any state or local governmental entity; providing exceptions for individuals who are members of the commission on the effective date of the act until the expiration of their current terms; amending s. 112.3215, F.S.; requiring the commission to adopt a rule detailing the grounds for waiving a fine and the procedures when a lobbyist fails to timely file his or her report; requiring automatic suspension of a lobbyist's registration if the fine is not timely paid; requiring the commission to provide written notice to any lobbyist whose registration is automatically suspended; amending s. 112.322, F.S.; authorizing travel and per diem expenses for certain witnesses; amending s. 914.21, F.S.; redefining the terms “official investigation” and “official proceeding,” for purposes of provisions relating to tampering with witnesses, to include an investigation by the Commission on Ethics; providing an effective date.

Pursuant to Rule 4.19, **HB 1377** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Klein, by two-thirds vote **HB 1099** was withdrawn from the Committees on Education; and Commerce and Consumer Services.

On motion by Senator Klein—

HB 1099—A bill to be entitled An act relating to the Assistive Technology Advisory Council; amending s. 413.407, F.S.; revising composition, terms of service, and duties of the council; requiring the Commissioner of Education to appoint members of the council; deleting provision requiring the council to fund Florida's Alliance for Assistive Services and Technology; providing an effective date.

—a companion measure, was substituted for **CS for SB 1704** and read the second time by title.

Pursuant to Rule 4.19, **HB 1099** was placed on the calendar of Bills on Third Reading.

On motion by Senator Sebesta—

CS for CS for CS for SB 454—A bill to be entitled An act relating to highway safety; amending s. 61.13016, F.S.; directing the department to issue a driver's license restricted for business purposes only under certain circumstances relating to failure to pay child support; amending s. 316.006, F.S.; providing for interlocal agreements between municipalities and counties transferring traffic regulatory authority; amending s. 316.083, F.S.; requiring an appropriate signal when overtaking and passing a vehicle; amending s. 316.155, F.S.; specifying that signals are required when moving right or left or overtaking or passing a vehicle; amending s. 316.2095, F.S.; revising physical requirements for operating motorcycles under certain circumstances; amending s. 316.212, F.S.; granting local jurisdictions the authority to enact ordinances governing the use of golf carts which are more restrictive than state law; amending s. 316.2126, F.S.; requiring that the use of golf carts upon any state, county, or municipal road within a local jurisdiction be in compliance with local ordinances governing the use of golf carts; amending s. 316.302, F.S.; providing a penalty for operating a commercial motor vehicle bearing a false or other illegal identification number; amending s. 316.3045, F.S.; revising criteria related to the operation of radios or other sound-making devices in motor vehicles; amending s. 318.1215, F.S.; clarifying that funds from the Dori Slosberg Driver Education Safety Act be used for driver education programs in schools; requiring that funds be used for enhancement of a driver education program; providing a requirement for behind-the-wheel training; amending s. 318.14, F.S.; providing penalties for certain traffic infractions requiring a mandatory hearing; providing for distribution of moneys collected; amending s. 318.21, F.S.; providing for distribution of specified civil penalties by county courts; amending s. 319.30, F.S.; revising provisions relating to the applicability of certificate of destruction requirements for certain damaged vehicles; amending s. 320.02, F.S.; authorizing the withholding of motor vehicle registrations or re-registrations in certain situations; requiring motor vehicle dealers to maintain certain information; allowing owners and co-owners to dispute a dealer's claims of money owed; amending s. 320.27, F.S.; providing for motor vehicle dealer license discipline for the failure to maintain evidence of notification to the owner or co-owner of a vehicle regarding registration and titling fees owed; revising authorized uses of revenues from the United We Stand specialty license plate; amending s. 320.08058, F.S.; redesignating the Florida Special Olympics license plate as the Special Olympics Florida license plate and revising design requirements for such specialty license plate; revising requirements for agencies that receive funds from the Choose Life license plate; revising authorized uses of revenues from the Animal Friend specialty license plate; amending s. 320.089, F.S.; allowing retired members of the U.S. Armed Forces Reserve to be issued U.S. Reserve license plates; amending s. 320.77, F.S.; providing that mobile home dealers may provide a cash bond or letter of credit in lieu of a required surety bond; amending s. 322.08, F.S.; revising the use of funds collected from a voluntary contribution associated with driver's license renewals to be used for the purposes designated by the Hearing Research Institute, Inc.; amending s. 322.2615, F.S.; providing that the disposition of a related criminal proceeding may not affect a suspension of a driver's license for refusal to submit to blood, breath, or urine testing; directing the Department of Highway Safety and Motor Vehicles to invalidate a suspension for driving with an unlawful blood-alcohol level or breath-alcohol level if the suspended person is found not guilty at trial of the underlying violation of law; creating the

Manufactured Housing Regulatory Study Commission; providing for membership; providing duties; requiring the commission to file a report with the Governor and the Legislature; amending s. 322.27, F.S.; correcting a cross-reference relating to points assigned for littering violations; amending s. 322.61, F.S.; specifying additional violations that disqualify a person from operating a commercial motor vehicle; providing penalties; providing an exception to the requirement that a commercial driver's license be in possession of the commercial driver; removing requirements for a Class D driver's license; amending s. 321.24, F.S.; providing that certain medical professionals who volunteer for Florida Highway Patrol service are considered employees of the state for sovereign immunity purposes; creating s. 549.102, F.S.; authorizing temporary overnight parking during a motorsports event at a motorsports entertainment complex; exempting such parking from regulations relating to recreational vehicle parks; providing for application of health agency requirements; providing effective dates.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for CS for CS for SB 454** to **HB 1697**.

Pending further consideration of **CS for CS for CS for SB 454** as amended, on motion by Senator Sebesta, by two-thirds vote **HB 1697** was withdrawn from the Committees on Transportation; Criminal Justice; Governmental Oversight and Productivity; and Transportation and Economic Development Appropriations.

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

HB 1697—A bill to be entitled An act relating to motor vehicles; amending s. 61.13016, F.S.; revising provisions for suspension of the driver's license of certain support obligors who are delinquent in payment; providing for set-aside of the suspension upon a showing of good cause; defining "good cause"; amending s. 261.03, F.S.; redefining the term "off-highway vehicle" to include a two-rider ATV; defining the term "two-rider ATV"; amending s. 316.003, F.S.; defining the term "traffic signal preemption system"; amending s. 316.006, F.S.; providing for interlocal agreements between municipalities and counties transferring traffic regulatory authority; amending s. 316.074, F.S.; requiring hearing for violations of traffic control devices resulting in a crash; amending s. 316.075, F.S.; requiring hearing for specified violations of traffic control signal devices resulting in a crash; amending s. 316.0775, F.S.; providing that the unauthorized use of a traffic signal preemption device is a moving violation; amending s. 316.122, F.S.; providing for the right-of-way for certain passing vehicles; creating s. 316.1576, F.S.; prohibiting driving through a railroad-highway grade crossing that does not have sufficient space or clearance; providing a penalty; creating s. 316.1577, F.S.; prohibiting employer from allowing, requiring, permitting, or authorizing certain violations pertaining to railroad-highway grade crossings; providing a penalty; amending s. 316.183, F.S.; increasing the minimum speed limit on interstate highways under certain circumstances; amending s. 316.1932, F.S.; revising the requirements for printing the notice of consent for sobriety testing on a driver's license; amending s. 316.1936, F.S., relating to possession of open containers of alcohol; removing an exemption provided for passengers of a vehicle operated by a driver holding a Class D driver's license; amending s. 316.194, F.S.; authorizing traffic accident investigation officers to remove vehicles under certain circumstances; amending s. 316.1967, F.S.; providing that an owner of a leased vehicle is not responsible for a parking ticket violation in certain circumstances; amending s. 316.2074, F.S.; redefining the term "all-terrain vehicle" to include a two-rider ATV; amending s. 316.2095, F.S.; revising equipment requirements for operating motorcycles; providing penalties; amending s. 316.212, F.S.; authorizing local governments to enact more restrictive golf cart equipment and operation regulations; requiring public notification; providing for enforcement jurisdiction; providing penalties; amending s. 316.2126, F.S.; providing for application of local golf cart equipment and operation regulations to golf cart and utility vehicle use by municipalities; amending s. 316.302, F.S.; updating a reference to the Code of Federal Regulations relating to commercial motor vehicles; amending s. 316.3045, F.S.; revising restrictions on the operation of radios or other soundmaking devices in motor vehicles; providing penalties; amending s. 316.605, F.S.; clarifying that portion of a license plate which must be clear and plainly visible; amending s. 316.613, F.S.; eliminating authorization for the Department of Highway Safety and Motor Vehicles to expend certain funds for promotional purposes; creating s. 316.6131, F.S.; authorizing the department to expend certain funds for public information and education campaigns; amending s. 316.650, F.S.; providing exceptions to a

prohibition against using citations as evidence in a trial; amending s. 317.0003, F.S.; defining the term "off-highway vehicle" to include a two-rider ATV; providing a definition; amending ss. 317.0004, 317.0005, and 317.0006, F.S.; conforming references; amending s. 317.0007, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to issue a validation sticker as an additional proof of title for an off-highway vehicle; providing for the replacement of lost or destroyed off-highway vehicle validation stickers; providing for disposition of fees; repealing s. 317.0008(2), F.S., relating to the expedited issuance of duplicate certificates of title for off-highway vehicles; amending ss. 317.0010, 317.0012, and 317.0013, F.S.; conforming references; creating s. 317.0014, F.S.; establishing procedures for the issuance of a certificate of title for an off-highway vehicle; providing duties of the Department of Highway Safety and Motor Vehicles; providing for a notice of lien and lien satisfaction; creating s. 317.0015, F.S.; providing for the applicability of certain provisions of law to the titling of off-highway vehicles; creating s. 317.0016, F.S.; providing for the expedited issuance of titles for off-highway vehicles; creating s. 317.0017, F.S.; prohibiting specified actions relating to the issuance of titles for off-highway vehicles; providing a penalty; creating s. 317.0018, F.S.; prohibiting the transfer of an off-highway vehicle without delivery of a certificate of title; prescribing other violations; providing a penalty; amending s. 318.1215, F.S.; clarifying that funds from the Dori Slosberg Driver Education Safety Act be used for driver education programs in schools; requiring that funds be used for enhancement of driver education program funds; providing program requirements; amending s. 318.14, F.S.; authorizing the department to modify certain actions to suspend or revoke a driver's license following notice of final disposition; providing that certain citation procedures and proceedings apply to persons who do not hold a commercial driver's license; providing penalties for certain traffic infractions requiring a mandatory hearing; providing for distribution of moneys collected; requiring audit of certain funds; amending s. 318.21, F.S.; providing for distribution of specified civil penalties by county courts; amending s. 319.23, F.S.; requiring a licensed motor vehicle dealer to notify the Department of Highway Safety and Motor Vehicles of a motor vehicle or mobile home taken as a trade-in; requiring the department to update its title record; amending s. 319.27, F.S.; correcting an obsolete cross-reference; amending s. 320.02, F.S.; authorizing the department to withhold motor vehicle registration or renewal of registration when notified by a dealer of unpaid registration and titling fees; requiring the motor vehicle dealer to maintain certain signed evidence and information; providing for dispute of dealer's claim of unpaid fees; amending s. 320.06, F.S.; providing for a credit or refund when a registrant is required to replace a license plate under certain circumstances; amending s. 320.0601, F.S.; requiring that a registration or renewal of a long-term leased motor vehicle be in the name of the lessee; amending s. 320.0605, F.S.; exempting a vehicle registered as a fleet vehicle from the requirement that the certificate of registration be carried in the vehicle at all times; amending s. 320.08058, F.S.; revising distribution and authorized uses of revenues from the United We Stand and Animal Friend specialty license plates; amending s. 320.0843, F.S.; requiring that an applicant's eligibility for a disabled parking plate be noted on the certificate; amending s. 320.089, F.S.; allowing retired members of the United States Armed Forces Reserve to be issued U.S. Reserve license plates; amending s. 320.131, F.S.; authorizing the department to provide for an electronic system for motor vehicle dealers to use in issuing temporary license plates; providing a penalty; authorizing the department to adopt rules; amending s. 320.18, F.S.; authorizing the department to cancel the vehicle or vessel registration, driver's license, or identification card of a person who pays certain fees or penalties with a dishonored check; amending s. 320.27, F.S.; requiring dealer principals to provide certification of completing continuing education under certain circumstances; requiring motor vehicle dealers to maintain records for a specified period; providing for denial, suspension, or revocation of a motor vehicle dealer's license for failure to maintain evidence of notification to the owner or coowner of a vehicle regarding unpaid registration and titling fees; providing certain penalties; amending s. 320.77, F.S.; providing that mobile home dealers may provide a cash bond or letter of credit in lieu of a required surety bond; creating the Manufactured Housing Regulatory Study Commission; providing for membership; providing duties; requiring the commission to file a report with the Governor and the Legislature; amending s. 322.01, F.S.; redefining the terms "commercial motor vehicle" and "out-of-service order"; providing the definition of conviction applicable to offenses committed in a commercial motor vehicle; amending s. 322.05, F.S.; removing requirements for a Class D driver's license; amending s. 322.051, F.S.; revising provisions relating to the application for an identification card; providing that the requirement for a fullface photograph or digital image on an identification card may not be waived under ch.

761, F.S.; amending s. 322.07, F.S.; removing requirements for a Class D driver's license; amending s. 322.08, F.S.; providing that a United States passport is an acceptable proof of identity for purposes of obtaining a driver's license; providing that a naturalization certificate issued by the United States Department of Homeland Security is an acceptable proof of identity for such purpose; providing that specified documents are acceptable as proof of nonimmigrant classification; removing prescribed purpose of funds collected from a voluntary contribution option on driver's license applications associated with hearing research; amending s. 322.09, F.S.; requiring the signature of a secondary guardian on a driver's license application for a minor under certain circumstances; amending s. 322.11, F.S.; providing for notice to a minor before canceling the minor's license due to the death of the person who cosigned the initial application; amending s. 322.12, F.S.; removing requirements for a Class D driver's license; amending s. 322.135, F.S.; revising requirements for the deposit of certain fees for a driver's license; revising requirements for the tax collector in directing a licensee for examination or reexamination; requiring county officers to pay certain funds to the State Treasury by electronic funds transfer within a specified period; amending s. 322.142, F.S.; providing that the requirement for a fullface photograph or digital image on a driver's license may not be waived under ch. 761, F.S.; amending s. 322.161, F.S.; removing requirements for a Class D driver's license; amending s. 322.17, F.S., relating to duplicate and replacement certificates; conforming a cross-reference; amending s. 322.18, F.S.; revising the expiration period for driver's licenses issued to specified persons; conforming cross-references; amending s. 322.19, F.S., relating to change of address or name; conforming cross-references; amending s. 322.21, F.S.; removing requirements for a Class D driver's license; requiring the department to set a fee for a hazardous-materials endorsement; providing maximum fee amount; authorizing the department to adopt rules; amending s. 322.212, F.S.; providing an additional penalty for giving false information when applying for a commercial driver's license; amending s. 322.22, F.S.; authorizing the department to cancel any identification card, vehicle or vessel registration, or fuel-use decal of a licensee who pays certain fees or penalties with a dishonored check; amending s. 322.251, F.S.; removing requirements for a Class D driver's license; amending s. 322.2615, F.S.; revising provisions related to notice and review procedures for administrative suspension of driver's licenses; revising notice information; clarifying review procedures; amending s. 322.27, F.S.; correcting a cross-reference relating to points assigned for littering violations; assigning point value for a conviction of specified violations of a traffic control device or traffic control signal device resulting in a crash; amending s. 322.30, F.S.; removing the requirements for a Class D driver's license; amending s. 322.53, F.S.; removing requirements for a Class D driver's license; removing a requirement that certain operators of a commercial motor vehicle obtain a specified license; amending s. 322.54, F.S.; revising the classification requirements for certain driver's licenses; deleting requirements for a Class D driver's license; amending s. 322.57, F.S.; providing testing requirements for school bus drivers; removing certain license restriction requirements; amending s. 322.58, F.S.; deleting requirements for a Class D driver's license and changing those requirements to a Class E driver's license; amending and reenacting s. 322.61, F.S.; specifying additional violations that disqualify a person from operating a commercial motor vehicle; providing penalties; providing an exception; removing requirements for a Class D driver's license; amending s. 322.63, F.S.; clarifying provisions governing alcohol and drug testing for commercial motor vehicle operators; amending s. 322.64, F.S., and reenacting s. 322.64(14), F.S., relating to citation procedures and proceedings, to incorporate the amendment to s. 322.61, F.S., in a reference thereto; providing for a temporary permit issued following certain DUI offenses to apply only to the operation of noncommercial vehicles; amending s. 338.155, F.S.; exempting from payment of toll any person participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty; creating s. 549.102, F.S.; authorizing temporary overnight parking during a motorsports event at a motorsports entertainment complex; exempting such parking from regulations relating to recreational vehicle parks; providing for application of health agency requirements; amending s. 713.78, F.S.; revising provisions relating to the placement of a wrecker operator's lien against a motor vehicle; amending s. 768.28, F.S.; providing that certain medical professionals volunteering for Florida Highway Patrol service are considered employees of the state for sovereign immunity purposes; amending s. 843.16, F.S.; prohibiting the transportation of radio equipment that receives signals on frequencies used by this state's law enforcement officers or fire rescue personnel; redefining the term "emergency vehicle" to include any motor vehicle designated as such by the fire chief of a county or municipality; revising penalties; providing effective dates.

—a companion measure, was substituted for **CS for CS for CS for SB 454** as amended and read the second time by title.

Senator Sebesta moved the following amendment:

Amendment 1 (950742)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 61.13016, Florida Statutes, is amended to read:

61.13016 Suspension of driver's licenses and motor vehicle registrations.—

(1) The driver's license and motor vehicle registration of a support obligor who is delinquent in payment or who has failed to comply with subpoenas or a similar order to appear or show cause relating to paternity or support proceedings may be suspended. When an obligor is 15 days delinquent making a payment in support or failure to comply with a subpoena, order to appear, order to show cause, or similar order in IV-D cases, the Title IV-D agency may provide notice to the obligor of the delinquency or failure to comply with a subpoena, order to appear, order to show cause, or similar order and the intent to suspend by regular United States mail that is posted to the obligor's last address of record with the Department of Highway Safety and Motor Vehicles. When an obligor is 15 days delinquent in making a payment in support in non-IV-D cases, and upon the request of the obligee, the depository or the clerk of the court must provide notice to the obligor of the delinquency and the intent to suspend by regular United States mail that is posted to the obligor's last address of record with the Department of Highway Safety and Motor Vehicles. In either case, the notice must state:

(a) The terms of the order creating the support obligation;

(b) The period of the delinquency and the total amount of the delinquency as of the date of the notice or describe the subpoena, order to appear, order to show cause, or other similar order which has not been complied with;

(c) That notification will be given to the Department of Highway Safety and Motor Vehicles to suspend the obligor's driver's license and motor vehicle registration unless, within 20 days after the date the notice is mailed, the obligor:

1.a. Pays the delinquency in full and any other costs and fees accrued between the date of the notice and the date the delinquency is paid;

b. Enters into a written agreement for payment with the obligee in non-IV-D cases or with the Title IV-D agency in IV-D cases; or in IV-D cases, complies with a subpoena or order to appear, order to show cause, or a similar order; or

c. Files a petition with the circuit court to contest the delinquency action; and

2. Pays any applicable delinquency fees.

If the obligor in non-IV-D cases enters into a written agreement for payment before the expiration of the 20-day period, the obligor must provide a copy of the signed written agreement to the depository or the clerk of the court.

(2)(a) *Upon petition filed by the obligor in the circuit court within 20 days after the mailing date of the notice, the court may, in its discretion, direct the department to issue a license for driving privileges restricted to business purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license. As a condition for the court to exercise its discretion under this subsection, the obligor must agree to a schedule of payment on any child support arrearages and to maintain current child support obligations. If the obligor fails to comply with the schedule of payment, the court shall direct the Department of Highway Safety and Motor Vehicles to suspend the obligor's driver's license.*

(b) *The obligor must serve a copy of the petition on the Title IV-D agency in IV-D cases or on the depository or the clerk of the court in non-IV-D cases. When an obligor timely files a petition to set aside a suspension, the court must hear the matter within 15 days after the petition is filed. The court must enter an order resolving the matter within 10 days after the hearing, and a copy of the order must be served on the parties. The timely filing of a petition under this subsection stays the intent to suspend until the entry of a court order resolving the matter.*

(3)(2) If the obligor does not, within 20 days after the mailing date on the notice, pay the delinquency, enter into a payment agreement, comply with the subpoena, order to appear, order to show cause, or other similar order, or file a motion to contest, the Title IV-D agency in IV-D cases, or the depository or clerk of the court in non-IV-D cases, shall file the notice with the Department of Highway Safety and Motor Vehicles and request the suspension of the obligor's driver's license and motor vehicle registration in accordance with s. 322.058.

(4)(3) The obligor may, within 20 days after the mailing date on the notice of delinquency or noncompliance and intent to suspend, file in the circuit court a petition to contest the notice of delinquency or noncompliance and intent to suspend on the ground of mistake of fact regarding the existence of a delinquency or the identity of the obligor. The obligor must serve a copy of the petition on the Title IV-D agency in IV-D cases or depository or clerk of the court in non-IV-D cases. When an obligor timely files a petition to contest, the court must hear the matter within 15 days after the petition is filed. The court must enter an order resolving the matter within 10 days after the hearing, and a copy of the order must be served on the parties. The timely filing of a petition to contest stays the notice of delinquency and intent to suspend until the entry of a court order resolving the matter.

Section 2. Subsection (2) of section 316.006, Florida Statutes, is amended to read:

316.006 Jurisdiction.—Jurisdiction to control traffic is vested as follows:

(2) MUNICIPALITIES.—

(a) Chartered municipalities shall have original jurisdiction over all streets and highways located within their boundaries, except state roads, and may place and maintain such traffic control devices which conform to the manual and specifications of the Department of Transportation upon all streets and highways under their original jurisdiction as they shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic.

(b) A municipality may exercise jurisdiction over any private road or roads, or over any limited access road or roads owned or controlled by a special district, located within its boundaries if the municipality and party or parties owning or controlling such road or roads provide, by written agreement approved by the governing body of the municipality, for municipal traffic control jurisdiction over the road or roads encompassed by such agreement. Pursuant thereto:

1. Provision for reimbursement for actual costs of traffic control and enforcement and for liability insurance and indemnification by the party or parties, and such other terms as are mutually agreeable, may be included in such an agreement.

2. The exercise of jurisdiction provided for herein shall be in addition to jurisdictional authority presently exercised by municipalities under law, and nothing in this paragraph shall be construed to limit or remove any such jurisdictional authority. Such jurisdiction includes regulation of access to such road or roads by security devices or personnel.

3. Any such agreement may provide for the installation of multiparty stop signs by the parties controlling the roads covered by the agreement if a determination is made by such parties that the signage will enhance traffic safety. Multiparty stop signs must conform to the manual and specifications of the Department of Transportation; however, minimum traffic volumes may not be required for the installation of such signage. Enforcement for the signs shall be as provided in s. 316.123.

(c) *Notwithstanding any other provisions of law to the contrary, a municipality may, by interlocal agreement with a county, agree to transfer traffic regulatory authority over areas within the municipality to the county.*

This subsection shall not limit those counties which have the charter powers to provide and regulate arterial, toll, and other roads, bridges, tunnels, and related facilities from the proper exercise of those powers by the placement and maintenance of traffic control devices which conform to the manual and specifications of the Department of Transportation on streets and highways located within municipal boundaries.

Section 3. Section 316.083, Florida Statutes, is amended to read:

316.083 Overtaking and passing a vehicle.—The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereinafter stated:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall give an appropriate signal as provided for in s. 316.156, shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle, on audible signal or upon the visible blinking of the headlamps of the overtaking vehicle if such overtaking is being attempted at nighttime, and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 4. Section 316.155, Florida Statutes, is amended to read:

316.155 When signal required.—

(1) No person may turn a vehicle from a direct course or move right or left upon a highway unless and until such movement can be made with reasonable safety, and then only after giving an appropriate signal in the manner hereinafter provided, in the event any other vehicle may be affected by the movement.

(2) A signal of intention to turn right or left must be given continuously during not less than the last 100 feet traveled by the vehicle before turning, except that such a signal by hand or arm need not be given continuously by a bicyclist if the hand is needed in the control or operation of the bicycle.

(3) No person may stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear, when there is opportunity to give such signal.

(4) The signals provided for in s. 316.156 shall be used to indicate an intention to turn, to overtake, or to pass a vehicle and may not, except as provided in s. 316.2397, be flashed on one side only on a parked or disabled vehicle or flashed as a courtesy or “do pass” signal to operators of other vehicles approaching from the rear.

(5) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 5. Section 316.2095, Florida Statutes, is amended to read:

316.2095 Footrests, handholds, and handlebars.—

(1) Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, shall be equipped with footrests and handholds for such passenger.

(2) No person shall operate any motorcycle with handlebars or with handgrips that are higher than the top of the shoulders of the person operating the motorcycle while properly seated upon the motorcycle more than 15 inches in height above that portion of the seat occupied by the operator.

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 6. Section 316.212, Florida Statutes, is amended to read:

316.212 Operation of golf carts on certain roadways.—The operation of a golf cart upon the public roads or streets of this state is prohibited except as provided herein:

(1) A golf cart may be operated only upon a county road that has been designated by a county, or a municipal city street that has been designated by a municipality city, for use by golf carts. Prior to making such a designation, the responsible local governmental entity must first determine that golf carts may safely travel on or cross the public road or street, considering factors including the speed, volume, and character of

motor vehicle traffic using the road or street. Upon a determination that golf carts may be safely operated on a designated road or street, the responsible governmental entity shall post appropriate signs to indicate that such operation is allowed.

(2) A golf cart may be operated on a part of the State Highway System only under the following conditions:

(a) To cross a portion of the State Highway System which intersects a county road or municipal city street that has been designated for use by golf carts if the Department of Transportation has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes.

(b) To cross, at midblock, a part of the State Highway System where a golf course is constructed on both sides of the highway if the Department of Transportation has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes.

(c) A golf cart may be operated on a state road that has been designated for transfer to a local government unit pursuant to s. 335.0415 if the Department of Transportation determines that the operation of a golf cart within the right-of-way of the road will not impede the safe and efficient flow of motor vehicular traffic. The department may authorize the operation of golf carts on such a road if:

1. The road is the only available public road along which golf carts may travel or cross or the road provides the safest travel route among alternative routes available; and

2. The speed, volume, and character of motor vehicular traffic using the road is considered in making such a determination.

Upon its determination that golf carts may be operated on a given road, the department shall post appropriate signs on the road to indicate that such operation is allowed.

(3) Any other provision of this section to the contrary notwithstanding, a golf cart may be operated for the purpose of crossing a street or highway where a single mobile home park is located on both sides of the street or highway and is divided by that street or highway, provided that the governmental entity having original jurisdiction over such street or highway shall review and approve the location of the crossing and require implementation of any traffic controls needed for safety purposes. This subsection shall apply only to residents or guests of the mobile home park. Any other provision of law to the contrary notwithstanding, if notice is posted at the entrance and exit to any mobile home park that residents of the park utilize golf carts or electric vehicles within the confines of the park it shall not be necessary that the park have a gate or other device at the entrance and exit in order for such golf carts or electric vehicles to be lawfully operated in the park.

(4) A golf cart may be operated only during the hours between sunrise and sunset, unless the responsible governmental entity has determined that a golf cart may be operated during the hours between sunset and sunrise and the golf cart is equipped with headlights, brake lights, turn signals, and a windshield.

(5) A golf cart must be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear.

(6) A golf cart may not be operated on public roads or streets by any person under the age of 14.

(7) A local governmental entity may enact an ordinance regarding golf cart operation and equipment which is more restrictive than those enumerated in this section. Upon enactment of any such ordinance, the local governmental entity shall post appropriate signs or otherwise inform the residents that such an ordinance exists and that it shall be enforced within the local government's jurisdictional territory.

(8)(7) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a moving violation for infractions of subsection (1), subsection (2), subsection (3), or subsection (4), or a local ordinance corresponding thereto and enacted pursuant to subsection (7), or punishable pursuant to chapter 318 as a nonmoving violation for infractions of subsections (5), subsection and (6),

or a local ordinance corresponding thereto and enacted pursuant to subsection (7).

Section 7. Section 316.2126, Florida Statutes, is amended to read:

316.2126 Use of golf carts and utility vehicles by municipalities.—In addition to the powers granted by ss. 316.212 and 316.2125, municipalities are hereby authorized to utilize golf carts and utility vehicles, as defined in s. 320.01, upon any state, county, or municipal roads located within the corporate limits of such municipalities, subject to the following conditions:

(1) Golf carts and utility vehicles must comply with the operational and safety requirements in ss. 316.212 and 316.2125, and with any more restrictive ordinances enacted by the local governmental entity pursuant to s. 316.212(7), and shall only be operated by municipal employees for municipal purposes, including, but not limited to, police patrol, traffic enforcement, and inspection of public facilities.

(2) In addition to the safety equipment required in s. 316.212(5) and any more restrictive safety equipment required by the local governmental entity pursuant to s. 316.212(7), such golf carts and utility vehicles must be equipped with sufficient lighting and turn signal equipment.

(3) Golf carts and utility vehicles may only be operated on state roads that have a posted speed limit of 30 miles per hour or less.

(4) A municipal employee operating a golf cart or utility vehicle pursuant to this section must possess a valid driver's license as required by s. 322.03.

Section 8. Subsection (11) is added to section 316.302, Florida Statutes, to read:

316.302 Commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.—

(11) In addition to any other penalty provided in this section, a person who operates a commercial motor vehicle that bears an identification number required by this section which is false, fraudulent, or displayed without the consent of the person to whom it is assigned commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. Section 316.3045, Florida Statutes, is amended to read:

316.3045 Operation of radios or other mechanical soundmaking devices or instruments in vehicles; exemptions.—

(1) It is unlawful for any person operating or occupying a motor vehicle on a street or highway to operate or amplify the sound produced by a radio, tape player, or other mechanical soundmaking device or instrument from within the motor vehicle so that the sound is:

(a) Plainly audible at a distance of 25 ~~400~~ feet or more from the motor vehicle; or

(b) Louder than necessary for the convenient hearing by persons inside the vehicle in areas adjoining churches, schools, or hospitals.

(2) The provisions of this section shall not apply to any law enforcement motor vehicle equipped with any communication device necessary in the performance of law enforcement duties or to any emergency vehicle equipped with any communication device necessary in the performance of any emergency procedures.

(3) The provisions of this section do not apply to motor vehicles used for business or political purposes, which in the normal course of conducting such business use soundmaking devices. The provisions of this subsection shall not be deemed to prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power, from regulating the time and manner in which such business may be operated.

(4) The provisions of this section do not apply to the noise made by a horn or other warning device required or permitted by s. 316.271. The Department of Highway Safety and Motor Vehicles shall promulgate rules defining "plainly audible" and establish standards regarding how sound should be measured by law enforcement personnel who enforce the provisions of this section.

(5) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 10. Section 318.1215, Florida Statutes, is amended to read:

318.1215 Dori Slosberg Driver Education Safety Act.—Effective October 1, 2002, notwithstanding the provisions of s. 318.121, a board of county commissioners may require, by ordinance, that the clerk of the court collect an additional \$3 with each civil traffic penalty, which shall be used to fund driver traffic education programs in public and nonpublic schools. The ordinance shall provide for the board of county commissioners to administer the funds, which shall be used for enhancement, and not replacement, of driver education program funds. The funds shall be used for direct educational expenses and shall not be used for administration. Each driver education program receiving funds pursuant to this section shall require that a minimum of 30 percent of a student's time in the program be behind-the-wheel training. This section may be cited as the "Dori Slosberg Driver Education Safety Act."

Section 11. Effective October 1, 2005, subsection (5) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(5) Any person electing to appear before the designated official or who is required so to appear shall be deemed to have waived his or her right to the civil penalty provisions of s. 318.18. The official, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction has been proven, the official may impose a civil penalty not to exceed \$500, except that in cases involving unlawful speed in a school zone or; involving unlawful speed in a construction zone, ~~or involving a death~~, the civil penalty may not exceed \$1,000; or require attendance at a driver improvement school, or both. *If the person is required to appear before the designated official pursuant to s. 318.19(1) and is found to have committed the infraction, the designated official shall impose a civil penalty of \$1,000 in addition to any other penalties and the person's driver's license shall be suspended for 6 months. If the person is required to appear before the designated official pursuant to s. 318.19(2) and is found to have committed the infraction, the designated official shall impose a civil penalty of \$500 in addition to any other penalties and the person's driver's license shall be suspended for 3 months.* If the official determines that no infraction has been committed, no costs or penalties shall be imposed and any costs or penalties that have been paid shall be returned. *Moneys received from the mandatory civil penalties imposed pursuant to this subsection upon persons required to appear before a designated official pursuant to s. 318.19(1) or (2) shall be remitted to the Department of Revenue and deposited into the Department of Health Administrative Trust Fund to provide financial support to certified trauma centers to assure the availability and accessibility of trauma services throughout the state. Funds deposited into the Administrative Trust Fund under this section shall be allocated as follows:*

(a) Fifty percent shall be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services.

(b) Fifty percent shall be allocated among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the Department of Health Trauma Registry.

Section 12. Effective October 1, 2005, subsection (13) is added to section 318.21, Florida Statutes, to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(13) Notwithstanding subsections (1) and (2), the proceeds from the mandatory civil penalties imposed pursuant to s. 318.14(5) shall be distributed as provided in that section.

Section 13. Paragraph (b) of subsection (3) of section 319.30, Florida Statutes, is amended to read:

319.30 Definitions; dismantling, destruction, change of identity of motor vehicle or mobile home; salvage.—

(3)

(b) The owner, including persons who are self-insured, of any motor vehicle or mobile home which is considered to be salvage shall, within 72 hours after the motor vehicle or mobile home becomes salvage, forward the title to the motor vehicle or mobile home to the department for processing. However, an insurance company which pays money as compensation for total loss of a motor vehicle or mobile home shall obtain the certificate of title for the motor vehicle or mobile home and, within 72 hours after receiving such certificate of title, shall forward such title to the department for processing. The owner or insurance company, as the case may be, may not dispose of a vehicle or mobile home that is a total loss before it has obtained a salvage certificate of title or certificate of destruction from the department. When applying for a salvage certificate of title or certificate of destruction, the owner or insurance company must provide the department with an estimate of the costs of repairing the physical and mechanical damage suffered by the vehicle for which a salvage certificate of title or certificate of destruction is sought. If the estimated costs of repairing the physical and mechanical damage to the vehicle are equal to 80 percent or more of the current retail cost of the vehicle, as established in any official used car or used mobile home guide, the department shall declare the vehicle unrebuildable and print a certificate of destruction, which authorizes the dismantling or destruction of the motor vehicle or mobile home described therein. *However, if the damaged motor vehicle is equipped with custom-lowered floors for wheelchair access or a wheelchair lift, the insurance company may, upon determining that the vehicle is repairable to a condition that is safe for operation on public roads, submit the certificate of title to the department for reissuance as a salvage rebuildable title and the addition of a title brand of "insurance-declared total loss."* This certificate of destruction shall be reassignable a maximum of two times before dismantling or destruction of the vehicle shall be required, and shall accompany the motor vehicle or mobile home for which it is issued, when such motor vehicle or mobile home is sold for such purposes, in lieu of a certificate of title, and, thereafter, the department shall refuse issuance of any certificate of title for that vehicle. Nothing in this subsection shall be applicable when a vehicle is worth less than \$1,500 retail in undamaged condition in any official used motor vehicle guide or used mobile home guide or when a stolen motor vehicle or mobile home is recovered in substantially intact condition and is readily resalable without extensive repairs to or replacement of the frame or engine. Any person who willfully and deliberately violates this paragraph or falsifies any document to avoid the requirements of this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 14. Subsection (19) is added to section 320.02, Florida Statutes, to read:

320.02 Registration required; application for registration; forms.—

(19) *The department is authorized to withhold registration or re-registration of a motor vehicle if the name of the owner or of a co-owner appears on a list submitted to the department by a licensed motor vehicle dealer for a previous registration of that vehicle. The motor vehicle dealer must maintain signed evidence that the owner or co-owner acknowledged the dealer's authority to submit the list to the department if he or she failed to pay and must note the amount for which the owner or co-owner would be responsible for the vehicle registration. The dealer must maintain the necessary documentation required in this subsection or face penalties as provided in s. 320.27. This subsection does not affect the issuance of a title to a motor vehicle.*

(a) *The motor vehicle owner or co-owner may dispute the claim that money is owed to a dealer for registration fees by submitting a form to the department if the motor vehicle owner or co-owner has documentary proof that the registration fees have been paid to the dealer for the disputed amount. Without clear evidence of the amounts owed for the vehicle registration and repayment, the department will assume initial payments are applied to government-assessed fees first.*

(b) *If the registered owner's dispute complies with paragraph (a), the department shall immediately remove the motor vehicle owner or co-owner's name from the list, thereby allowing the issuance of a license plate or revalidation sticker.*

Section 15. Paragraph (b) of subsection (9) of section 320.27, Florida Statutes, is amended to read:

320.27 Motor vehicle dealers.—

(9) DENIAL, SUSPENSION, OR REVOCATION.—

(b) The department may deny, suspend, or revoke any license issued hereunder or under the provisions of s. 320.77 or s. 320.771 upon proof that a licensee has committed, with sufficient frequency so as to establish a pattern of wrongdoing on the part of a licensee, violations of one or more of the following activities:

1. Representation that a demonstrator is a new motor vehicle, or the attempt to sell or the sale of a demonstrator as a new motor vehicle without written notice to the purchaser that the vehicle is a demonstrator. For the purposes of this section, a "demonstrator," a "new motor vehicle," and a "used motor vehicle" shall be defined as under s. 320.60.

2. Unjustifiable refusal to comply with a licensee's responsibility under the terms of the new motor vehicle warranty issued by its respective manufacturer, distributor, or importer. However, if such refusal is at the direction of the manufacturer, distributor, or importer, such refusal shall not be a ground under this section.

3. Misrepresentation or false, deceptive, or misleading statements with regard to the sale or financing of motor vehicles which any motor vehicle dealer has, or causes to have, advertised, printed, displayed, published, distributed, broadcast, televised, or made in any manner with regard to the sale or financing of motor vehicles.

4. Failure by any motor vehicle dealer to provide a customer or purchaser with an odometer disclosure statement and a copy of any bona fide written, executed sales contract or agreement of purchase connected with the purchase of the motor vehicle purchased by the customer or purchaser.

5. Failure of any motor vehicle dealer to comply with the terms of any bona fide written, executed agreement, pursuant to the sale of a motor vehicle.

6. Failure to apply for transfer of a title as prescribed in s. 319.23(6).

7. Use of the dealer license identification number by any person other than the licensed dealer or his or her designee.

8. Failure to continually meet the requirements of the licensure law.

9. Representation to a customer or any advertisement to the public representing or suggesting that a motor vehicle is a new motor vehicle if such vehicle lawfully cannot be titled in the name of the customer or other member of the public by the seller using a manufacturer's statement of origin as permitted in s. 319.23(1).

10. Requirement by any motor vehicle dealer that a customer or purchaser accept equipment on his or her motor vehicle which was not ordered by the customer or purchaser.

11. Requirement by any motor vehicle dealer that any customer or purchaser finance a motor vehicle with a specific financial institution or company.

12. Requirement by any motor vehicle dealer that the purchaser of a motor vehicle contract with the dealer for physical damage insurance.

13. Perpetration of a fraud upon any person as a result of dealing in motor vehicles, including, without limitation, the misrepresentation to any person by the licensee of the licensee's relationship to any manufacturer, importer, or distributor.

14. Violation of any of the provisions of s. 319.35 by any motor vehicle dealer.

15. Sale by a motor vehicle dealer of a vehicle offered in trade by a customer prior to consummation of the sale, exchange, or transfer of a newly acquired vehicle to the customer, unless the customer provides written authorization for the sale of the trade-in vehicle prior to delivery of the newly acquired vehicle.

16. Willful failure to comply with any administrative rule adopted by the department.

17. Violation of chapter 319, this chapter, or ss. 559.901-559.9221, which has to do with dealing in or repairing motor vehicles or mobile

homes. Additionally, in the case of used motor vehicles, the willful violation of the federal law and rule in 15 U.S.C. s. 2304, 16 C.F.R. part 455, pertaining to the consumer sales window form.

18. *Failure to maintain evidence of notification to the owner or co-owner of a vehicle regarding registration or titling fees owned as required in s. 320.02(19).*

Section 16. Subsections (7), (30), (33), and (56) of section 320.08058, Florida Statutes, are amended to read:

320.08058 Specialty license plates.—

(7) ~~FLORIDA SPECIAL OLYMPICS~~ *FLORIDA* LICENSE PLATES.—

(a) ~~Florida~~ Special Olympics *Florida* license plates must contain the official ~~Florida~~ Special Olympics *Florida* logo and must bear a design and colors that are approved by the department. The word “Florida” must be centered at the ~~bottom~~ *top* of the plate, and the words “*Everyone Wins*” “~~Support Florida Special Olympics~~” must be centered at the ~~bottom~~ *top* of the plate.

(b) The license plate annual use fees are to be annually distributed as follows:

1. The first \$5 million collected annually must be forwarded to the private nonprofit corporation as described in s. 393.002 and must be used solely for Special Olympics purposes as approved by the private nonprofit corporation.

2. Any additional fees must be deposited into the General Revenue Fund.

(30) CHOOSE LIFE LICENSE PLATES.—

(a) The department shall develop a Choose Life license plate as provided in this section. The word “Florida” must appear at the bottom of the plate, and the words “Choose Life” must appear at the top of the plate.

(b) The annual use fees shall be distributed annually to each county in the ratio that the annual use fees collected by each county bears to the total fees collected for the plates within the state. Each county shall distribute the funds to nongovernmental, not-for-profit agencies within the county, which agencies’ services are limited to counseling and meeting the physical needs of pregnant women who are committed to placing their children for adoption. Funds may not be distributed to any agency that is involved or associated with abortion activities, including counseling for or referrals to abortion clinics, providing medical abortion-related procedures, or proabortion advertising, and funds may not be distributed to any agency that charges women for services received.

1. Agencies that receive the funds must use at least 70 percent of the funds to provide for the material needs of pregnant women who are committed to placing their children for adoption, including clothing, housing, medical care, food, utilities, and transportation. Such funds may also be expended on infants awaiting placement with adoptive parents.

2. The remaining funds may be used for adoption, counseling, training, or advertising, but may not be used for administrative expenses, legal expenses, or capital expenditures.

3. Each agency that receives such funds must submit an annual ~~attestation audit, prepared by a certified public accountant,~~ to the county. ~~The county may conduct a consolidated audit in lieu of the annual audit.~~ Any unused funds that exceed 10 percent of the funds received by an agency during its fiscal year must be returned to the county, which shall distribute them to other qualified agencies.

(33) UNITED WE STAND LICENSE PLATES.—

(a) Notwithstanding the provisions of s. 320.08053, the department shall develop a United We Stand license plate as provided in this section. The American Flag must appear on the license plate in addition to the words “United We Stand.” The colors of the license plate must be red, white, and blue.

(b) The department shall retain all revenues from the sale of such plates until all startup costs for developing and issuing the plates have been recovered. Thereafter, ~~100~~ 50 percent of the annual use fee shall be distributed to the Department of Transportation *SAFE Council* to fund a grant program to enhance security at airports throughout the state, ~~pursuant to s. 332.14 and 50 percent of such fees shall be distributed to the Rewards for Justice Fund, to be contributed to the United States State Department’s Rewards for Justice program and used solely to apprehend terrorists and bring them to justice.~~

(56) ANIMAL FRIEND LICENSE PLATES.—

(a) Notwithstanding the provisions of s. 320.08053, the department shall develop an Animal Friend license plate as provided in this section. Animal Friend license plates must bear the colors and design approved by the department. The word “Florida” must appear at the top of the plate, and the words “Animal Friend” must appear at the bottom of the plate.

(b) The department shall retain all annual use fee revenues from the sale of such plates until all startup costs for developing and issuing the plates are recovered, not to exceed \$60,000.

(c) After the department has recovered all startup costs for developing and issuing the plates, the annual use fees shall be distributed to the *Florida Animal Friend, Inc., for Humane Society of the United States* for ~~animal welfare programs and~~ spay and neuter programs in the state.

(d) No more than 10 percent of the fees collected may be used for administrative costs directly associated with marketing and promotion of the Animal Friend license plate and distribution of funds as described in paragraph (c).

(e) Funds received from the purchase of the Animal Friend license plate shall not be used for litigation.

Section 17. Paragraph (a) of subsection (1) of section 320.089, Florida Statutes, is amended to read:

320.089 Members of National Guard and active United States Armed Forces reservists; former prisoners of war; survivors of Pearl Harbor; Purple Heart medal recipients; special license plates; fee.—

(1)(a) Each owner or lessee of an automobile or truck for private use or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of the state and an active or retired member of the Florida National Guard, a survivor of the attack on Pearl Harbor, a recipient of the Purple Heart medal, or an active *or retired* member of any branch of the United States Armed Forces Reserve shall, upon application to the department, accompanied by proof of active membership or retired status in the Florida National Guard, proof of membership in the Pearl Harbor Survivors Association or proof of active military duty in Pearl Harbor on December 7, 1941, proof of being a Purple Heart medal recipient, or proof of active *or retired* membership in any branch of the Armed Forces Reserve, and upon payment of the license tax for the vehicle as provided in s. 320.08, be issued a license plate as provided by s. 320.06, upon which, in lieu of the serial numbers prescribed by s. 320.06, shall be stamped the words “National Guard,” “Pearl Harbor Survivor,” “Combat-wounded veteran,” or “U.S. Reserve,” as appropriate, followed by the serial number of the license plate. Additionally, the Purple Heart plate may have the words “Purple Heart” stamped on the plate and the likeness of the Purple Heart medal appearing on the plate.

Section 18. Subsection (15) of section 320.77, Florida Statutes, is amended to read:

320.77 License required of mobile home dealers.—

(15) *SURETY BOND, CASH BOND, OR IRREVOCABLE LETTER OF CREDIT REQUIRED.*—

(a) Before any license shall be issued or renewed, the applicant *or licensee* shall deliver to the department a good and sufficient surety bond, *cash bond, or irrevocable letter of credit*, executed by the applicant *or licensee* as principal ~~and by a surety company qualified to do business in the state as surety.~~ The bond *or irrevocable letter of credit* shall be in a form to be approved by the department and shall be conditioned upon the dealer’s complying with the conditions of any written contract made

by the dealer in connection with the sale, exchange, or improvement of any mobile home and his or her not violating any of the provisions of chapter 319 or this chapter in the conduct of the business for which the dealer is licensed. The bond or *irrevocable letter of credit* shall be to the department and in favor of any retail customer who shall suffer any loss as a result of any violation of the conditions ~~hereinafter~~ ^{hereinabove} contained in *this section*. The bond or *irrevocable letter of credit* shall be for the license period, and a new bond or *irrevocable letter of credit* or a proper continuation certificate shall be delivered to the department at the beginning of each license period. However, the aggregate liability of the surety in any one license year shall in no event exceed the sum of such bond, or, in the case of a letter of credit, the aggregate liability of the issuing bank shall not exceed the sum of the credit. The amount of the bond required shall be as follows:

1. A single dealer who buys, sells, or deals in mobile homes and who has four or fewer supplemental licenses shall provide a surety bond, cash bond, or *irrevocable letter of credit* executed by the dealer applicant or licensee in the amount of \$25,000.

2. A single dealer who buys, sells, or deals in mobile homes and who has more than four supplemental licenses shall provide a surety bond, cash bond, or *irrevocable letter of credit* executed by the dealer applicant or licensee in the amount of \$50,000.

For the purposes of this paragraph, any person who buys, sells, or deals in both mobile homes and recreational vehicles shall provide the same surety bond required of dealers who buy, sell, or deal in mobile homes only.

(b) *Surety bonds shall be executed by a surety company authorized to do business in the state as surety, and irrevocable letters of credit shall be issued by a bank authorized to do business in the state as a bank.*

(c) *Irrevocable letters of credit shall be engaged by a bank as an agreement to honor demands for payment as specified in this section.*

(d)(b) The department shall, upon denial, suspension, or revocation of any license, notify the surety company of the licensee or bank issuing an *irrevocable letter of credit* for the licensee, in writing, that the license has been denied, suspended, or revoked and shall state the reason for such denial, suspension, or revocation.

(e)(e) Any surety company that ~~which~~ pays any claim against the bond of any licensee or any bank that honors a demand for payment as a condition specified in a letter of credit of a licensee shall notify the department, in writing, that ~~it has paid~~ such action has been taken ~~a claim~~ and shall state the amount of the claim or payment.

(f)(d) Any surety company that ~~which~~ cancels the bond of any licensee or any bank that cancels an *irrevocable letter of credit* shall notify the department, in writing, of such cancellation, giving reason for the cancellation.

Section 19. Subsection (6) of section 322.08, Florida Statutes, is amended to read:

322.08 Application for license.—

(6) The application form for a driver's license or duplicate thereof shall include language permitting the following:

(a) A voluntary contribution of \$5 per applicant, which contribution shall be transferred into the Election Campaign Financing Trust Fund.

(b) A voluntary contribution of \$1 per applicant, which contribution shall be deposited into the Florida Organ and Tissue Donor Education and Procurement Trust Fund for organ and tissue donor education and for maintaining the organ and tissue donor registry.

(c) A voluntary contribution of \$1 per applicant, which contribution shall be distributed to the Florida Council of the Blind.

(d) A voluntary contribution of \$2 per applicant, which shall be distributed to the Hearing Research Institute, Incorporated, ~~for the purpose of infant hearing screening in Florida.~~

(e) A voluntary contribution of \$1 per applicant, which shall be distributed to the Juvenile Diabetes Foundation International.

A statement providing an explanation of the purpose of the trust funds shall also be included. For the purpose of applying the service charge provided in s. 215.20, contributions received under paragraphs (c), (d), and (e) and under s. 322.18(9)(a) are not income of a revenue nature.

Section 20. Subsection (14) of section 322.2615, Florida Statutes, is amended, and subsection (16) is added to that section, to read:

322.2615 Suspension of license; right to review.—

(14)(a) The decision of the department under this section ~~may~~ ~~shall~~ not be considered in any trial for a violation of s. 316.193, ~~and a~~ ~~nor~~ ~~shall~~ any written statement submitted by a person in his or her request for departmental review under this section ~~may not be admitted~~ ~~admissible~~ into evidence against him or her in any such trial.

(b) The disposition of any related criminal proceedings ~~does~~ ~~shall~~ not affect a suspension for refusal to submit to a blood, breath, or urine test, authorized by s. 316.1932 or s. 316.1933, imposed under ~~pursuant to~~ this section.

(16) *The department shall invalidate a suspension for driving with an unlawful blood-alcohol level or breath-alcohol level imposed under this section if the suspended person is found not guilty at trial of an underlying violation of s. 316.193.*

Section 21. (1) *There is created the Manufactured Housing Regulatory Study Commission. The study commission shall be composed of 11 members who shall be appointed as follows:*

(a) *Four members appointed by the Florida Manufactured Housing Association, one member representing publicly owned manufacturers of manufactured housing, one member representing privately owned manufacturers of manufactured housing, and two members who are retail sellers of manufactured housing, one of whom must also sell residential manufactured buildings approved by the Department of Community Affairs.*

(b) *Two members from the Senate, appointed by the President of the Senate.*

(c) *Two members from the House of Representatives, appointed by the Speaker of the House of Representatives.*

(d) *The secretary of the Department of Community Affairs or the secretary's designee.*

(e) *The executive director of the Department of Highway Safety and Motor Vehicles or the director's designee.*

(f) *The commissioner of the Department of Agriculture and Consumer Services or the commissioner's designee.*

The commission members representing the departments of Community Affairs, Highway Safety and Motor Vehicles, and Agriculture and Consumer Services shall serve as ex officio, nonvoting members of the study commission.

(2) *The study commission shall review the programs regulating manufactured and mobile homes which are currently located at the Department of Highway Safety and Motor Vehicles and must include a review of the following programs and activities:*

(a) *The federal construction and inspection programs.*

(b) *The installation program, including the regulation and inspection functions.*

(c) *The Mobile Home and RV Protection Trust Fund.*

(d) *The licensing of manufacturers, retailers, and installers of manufactured and mobile homes.*

(e) *The titling of manufactured and mobile homes.*

(f) *Dispute resolution.*

During the course of the study, the study commission must review the sources funding the programs to determine if the manufactured and mobile home programs are or can be self-sustaining. The study commis-

tion shall also consider the impact that changes in regulation may have on the industry and its consumers.

(3) The study commission shall be administratively supported by the staff of the transportation committees of the Senate and the House of Representatives.

(4)(a) The study commission must hold its initial meeting no later than August 15, 2005, in Tallahassee. Staff to the commission shall schedule and organize the initial meeting. Subsequent meetings of the study commission must be held in Tallahassee according to a schedule developed by the chair.

(b) At the initial meeting, the study commission shall elect a chair from one of the elected official members.

(5) The study commission must submit a final report setting forth its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives on or before January 1, 2006.

(6) Members of the study commission shall serve without compensation, but are entitled to be reimbursed for per diem and travel expenses under section 112.061, Florida Statutes.

(7) The study commission terminates after submitting its final report but not later than February 15, 2006.

Section 22. Subsection (3) of section 322.27, Florida Statutes, is amended to read:

322.27 Authority of department to suspend or revoke license.—

(3) There is established a point system for evaluation of convictions of violations of motor vehicle laws or ordinances, and violations of applicable provisions of s. 403.413(6)(b) when such violations involve the use of motor vehicles, for the determination of the continuing qualification of any person to operate a motor vehicle. The department is authorized to suspend the license of any person upon showing of its records or other good and sufficient evidence that the licensee has been convicted of violation of motor vehicle laws or ordinances, or applicable provisions of s. 403.413(6)(b), amounting to 12 or more points as determined by the point system. The suspension shall be for a period of not more than 1 year.

(a) When a licensee accumulates 12 points within a 12-month period, the period of suspension shall be for not more than 30 days.

(b) When a licensee accumulates 18 points, including points upon which suspension action is taken under paragraph (a), within an 18-month period, the suspension shall be for a period of not more than 3 months.

(c) When a licensee accumulates 24 points, including points upon which suspension action is taken under paragraphs (a) and (b), within a 36-month period, the suspension shall be for a period of not more than 1 year.

(d) The point system shall have as its basic element a graduated scale of points assigning relative values to convictions of the following violations:

1. Reckless driving, willful and wanton—4 points.
2. Leaving the scene of a crash resulting in property damage of more than \$50—6 points.
3. Unlawful speed resulting in a crash—6 points.
4. Passing a stopped school bus—4 points.
5. Unlawful speed:
 - a. Not in excess of 15 miles per hour of lawful or posted speed—3 points.
 - b. In excess of 15 miles per hour of lawful or posted speed—4 points.
6. All other moving violations (including parking on a highway outside the limits of a municipality)—3 points. However, no points shall be imposed for a violation of s. 316.0741 or s. 316.2065(12).

7. Any moving violation covered above, excluding unlawful speed, resulting in a crash—4 points.

8. Any conviction under s. 403.413(6)(b) ~~s. 403.413(5)(b)~~—3 points.

(e) A conviction in another state of a violation therein which, if committed in this state, would be a violation of the traffic laws of this state, or a conviction of an offense under any federal law substantially conforming to the traffic laws of this state, except a violation of s. 322.26, may be recorded against a driver on the basis of the same number of points received had the conviction been made in a court of this state.

(f) In computing the total number of points, when the licensee reaches the danger zone, the department is authorized to send the licensee a warning letter advising that any further convictions may result in suspension of his or her driving privilege.

(g) The department shall administer and enforce the provisions of this law and may make rules and regulations necessary for its administration.

(h) Three points shall be deducted from the driver history record of any person whose driving privilege has been suspended only once pursuant to this subsection and has been reinstated, if such person has complied with all other requirements of this chapter.

(i) This subsection shall not apply to persons operating a nonmotorized vehicle for which a driver's license is not required.

Section 23. Subsections (1), (2), (3), (7), (8), and (10) of section 322.61, Florida Statutes, are amended to read:

322.61 Disqualification from operating a commercial motor vehicle.—

(1) A person who, for offenses occurring within a 3-year period, is convicted of two of the following serious traffic violations or any combination thereof, arising in separate incidents committed in a commercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 60 days. A person who, for offenses occurring within a 3-year period, is convicted of two of the following serious traffic violations, or any combination thereof, arising in separate incidents committed in a noncommercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 60 days if such convictions result in the suspension, revocation, or cancellation of the licenseholder's driving privilege:

(a) A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, a weight violation, or a vehicle equipment violation, arising in connection with a crash resulting in death or personal injury to any person;

(b) Reckless driving, as defined in s. 316.192;

(c) Careless driving, as defined in s. 316.1925;

(d) Fleeing or attempting to elude a law enforcement officer, as defined in s. 316.1935;

(e) Unlawful speed of 15 miles per hour or more above the posted speed limit;

(f) Driving a commercial motor vehicle, owned by such person, which is not properly insured;

(g) Improper lane change, as defined in s. 316.085; or

(h) Following too closely, as defined in s. 316.0895; or

(i) Driving a commercial vehicle without obtaining a commercial driver's license;

(j) Driving a commercial vehicle without the proper class of commercial driver's license or without the proper endorsement; or

(k) Driving a commercial vehicle without a commercial driver's license in possession, as required by s. 322.03. Any individual who provides proof to the clerk of the court or designated official in the jurisdiction where the citation was issued, by the date the individual must ap-

pear in court or pay any fine for such a violation, that the individual held a valid commercial driver's license on the date the citation was issued is not guilty of this offense.

(2)(a) Any person who, for offenses occurring within a 3-year period, is convicted of three serious traffic violations specified in subsection (1) or any combination thereof, arising in separate incidents committed in a commercial motor vehicle shall, in addition to any other applicable penalties, including but not limited to the penalty provided in subsection (1), be disqualified from operating a commercial motor vehicle for a period of 120 days.

(b) A person who, for offenses occurring within a 3-year period, is convicted of three serious traffic violations specified in subsection (1) or any combination thereof arising in separate incidents committed in a noncommercial motor vehicle shall, in addition to any other applicable penalties, including, but not limited to, the penalty provided in subsection (1), be disqualified from operating a commercial motor vehicle for a period of 120 days if such convictions result in the suspension, revocation, or cancellation of the licenseholder's driving privilege.

(3) Except as provided in subsection (4), any person who is convicted of one of the following offenses shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 1 year:

(a) Driving a commercial motor vehicle while he or she is under the influence of alcohol or a controlled substance;

(b) Driving a commercial motor vehicle while the alcohol concentration of his or her blood, breath, or urine is .04 percent or higher;

(c) Leaving the scene of a crash involving a commercial motor vehicle driven by such person;

(d) Using a commercial motor vehicle in the commission of a felony;

(e) Driving a commercial motor vehicle while in possession of a controlled substance; or

(f) Refusing to submit to a test to determine his or her alcohol concentration while driving a commercial motor vehicle;

(g) Driving a commercial vehicle while the licenseholder's commercial driver's license is suspended, revoked, or canceled or while the licenseholder is disqualified from driving a commercial vehicle; or

(h) Causing a fatality through the negligent operation of a commercial motor vehicle.

(7) A person whose privilege to operate a commercial motor vehicle is disqualified under this section may, if otherwise qualified, be issued a ~~Class D~~ or Class E driver's license, pursuant to s. 322.251.

(8) A driver who is convicted of or otherwise found to have committed a violation of an out-of-service order while driving a commercial motor vehicle is disqualified as follows:

(a) Not less than 90 days nor more than 1 year if the driver is convicted of or otherwise found to have committed a first violation of an out-of-service order.

(b) Not less than 1 year nor more than 5 years if, for offenses occurring during any 10-year period, the driver is convicted of or otherwise found to have committed two violations of out-of-service orders in separate incidents.

(c) Not less than 3 years nor more than 5 years if, for offenses occurring during any 10-year period, the driver is convicted of or otherwise found to have committed three or more violations of out-of-service orders in separate incidents.

(d) Not less than 180 days nor more than 2 years if the driver is convicted of or otherwise found to have committed a first violation of an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, 49 U.S.C. ss. 5101 et seq., or while operating motor vehicles designed to transport more than 15 passengers, including the driver. A driver is disqualified for a period of not less than 3 years nor more than 5 years

if, for offenses occurring during any 10-year period, the driver is convicted of or otherwise found to have committed any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act 49 U.S.C. ss. 5101 et seq., or while operating motor vehicles designed to transport more than 15 passengers, including the driver.

(10)(a) A driver must be disqualified for not less than 60 days if the driver is convicted of or otherwise found to have committed a first violation of a railroad-highway grade crossing violation.

(b) A driver must be disqualified for not less than 120 days if, for offenses occurring during any 3-year period, the driver is convicted of or otherwise found to have committed a second railroad-highway grade crossing violation in separate incidents.

(c) A driver must be disqualified for not less than 1 year if, for offenses occurring during any 3-year period, the driver is convicted of or otherwise found to have committed a third or subsequent railroad-highway grade crossing violation in separate incidents.

Section 24. Subsection (5) is added to section 321.24, to read:

321.24 Members of an auxiliary to Florida Highway Patrol.—

(5) Notwithstanding any other law to the contrary, any volunteer highway patrol troop surgeon appointed by the director of the Florida Highway Patrol, and any volunteer licensed health professional appointed by the director of the Florida Highway Patrol to work under the medical direction of a highway patrol troop surgeon is considered an employee for purposes of s. 768.28(9).

Section 25. Section 549.102, Florida Statutes, is created to read:

549.102 Motorsports entertainment complex; overnight parking.—Notwithstanding any other law to the contrary, the owner of a motorsports entertainment complex may allow temporary overnight parking during a motorsports event and the 2 days immediately preceding and following such motorsports event without any other license or permit as long as the area where such temporary overnight parking is allowed meets applicable health department requirements other than site requirements. The Department of Health, or any other health agency in the state, shall not regard such temporary overnight parking as a "recreational vehicle park" as described in chapter 513 and the administrative code adopted under that chapter.

Section 26. Subsection (6) of section 261.03, Florida Statutes, is amended and subsection (11) is added to that section, to read:

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

(6) "Off-highway vehicle" means any ATV, two-rider ATV, or OHM that is used off the roads or highways of this state for recreational purposes and that is not registered and licensed for highway use under chapter 320.

(11) "Two-rider ATV" means any ATV that is specifically designed by the manufacturer for a single operator and one passenger.

Section 27. Subsection (84) is added to section 316.003, Florida Statutes, to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(84) TRAFFIC SIGNAL PREEMPTION SYSTEM.—Any system or device with the capability of activating a control mechanism mounted on or near traffic signals which alters a traffic signal's timing cycle.

Section 28. Section 316.0775, Florida Statutes, is amended to read:

316.0775 Interference with official traffic control devices or railroad signs or signals.—

(1) A No person may not shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any official traffic control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof. A violation of this subsection

section is a criminal violation pursuant to s. 318.17 and shall be punishable as set forth in s. 806.13 related to criminal mischief and graffiti, beginning on or after July 1, 2000.

(2) A person may not, without lawful authority, possess or use any traffic signal preemption device as defined under s. 316.003. A person who violates this subsection commits a moving violation, punishable as provided in chapter 318 and shall have 4 points assessed against his or her driver's license as set forth in s. 322.27.

Section 29. Section 316.122, Florida Statutes, is amended to read:

316.122 Vehicle turning left.—The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction, or vehicles lawfully passing on the left of the turning vehicle, which is within the intersection or so close thereto as to constitute an immediate hazard. A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 30. Section 316.1576, Florida Statutes, is created to read:

316.1576 Insufficient clearance at a railroad-highway grade crossing.—

(1) A person may not drive any vehicle through a railroad-highway grade crossing that does not have sufficient space to drive completely through the crossing without stopping.

(2) A person may not drive any vehicle through a railroad-highway grade crossing that does not have sufficient undercarriage clearance to drive completely through the crossing without stopping.

(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 31. Section 316.1577, Florida Statutes, is created to read:

316.1577 Employer responsibility for violations pertaining to railroad-highway grade crossings.—

(1) An employer may not knowingly allow, require, permit, or authorize a driver to operate a commercial motor vehicle in violation of a federal, state, or local law or rule pertaining to railroad-highway grade crossings.

(2) A person who violates subsection (1) is subject to a civil penalty of not more than \$10,000.

Section 32. Subsection (2) of section 316.183, Florida Statutes, is amended to read:

316.183 Unlawful speed.—

(2) On all streets or highways, the maximum speed limits for all vehicles must be 30 miles per hour in business or residence districts, and 55 miles per hour at any time at all other locations. However, with respect to a residence district, a county or municipality may set a maximum speed limit of 20 or 25 miles per hour on local streets and highways after an investigation determines that such a limit is reasonable. It is not necessary to conduct a separate investigation for each residence district. The minimum speed limit on all highways that comprise a part of the National System of Interstate and Defense Highways and have not fewer than four lanes is 40 miles per hour, except that when the posted speed limit is 70 miles per hour, the minimum speed limit is 50 miles per hour.

Section 33. Paragraph (e) of subsection (1) of section 316.1932, Florida Statutes, is amended to read:

316.1932 Tests for alcohol, chemical substances, or controlled substances; implied consent; refusal.—

(1)

(e)1. By applying for a driver's license and by accepting and using a driver's license, the person holding the driver's license is deemed to have expressed his or her consent to the provisions of this section.

2. A nonresident or any other person driving in a status exempt from the requirements of the driver's license law, by his or her act of driving in such exempt status, is deemed to have expressed his or her consent to the provisions of this section.

3. A warning of the consent provision of this section shall be printed above the signature line on each new or renewed driver's license.

Section 34. Subsection (5) of section 316.1936, Florida Statutes, is amended to read:

316.1936 Possession of open containers of alcoholic beverages in vehicles prohibited; penalties.—

(5) This section shall not apply to:

(a) A passenger of a vehicle in which the driver is operating the vehicle pursuant to a contract to provide transportation for passengers and such driver holds a valid commercial driver's license with a passenger endorsement or a Class D driver's license issued in accordance with the requirements of chapter 322;

(b) A passenger of a bus in which the driver holds a valid commercial driver's license with a passenger endorsement or a Class D driver's license issued in accordance with the requirements of chapter 322; or

(c) A passenger of a self-contained motor home which is in excess of 21 feet in length.

Section 35. Paragraphs (a) and (b) of subsection (3) of section 316.194, Florida Statutes, are amended to read:

316.194 Stopping, standing or parking outside of municipalities.—

(3)(a) Whenever any police officer or traffic accident investigation officer finds a vehicle standing upon a highway in violation of any of the foregoing provisions of this section, the officer is authorized to move the vehicle, or require the driver or other persons in charge of the vehicle to move the vehicle same, to a position off the paved or main-traveled part of the highway.

(b) Officers and traffic accident investigation officers may be hereby authorized to provide for the removal of any abandoned vehicle to the nearest garage or other place of safety, cost of such removal to be a lien against motor vehicle, when an said abandoned vehicle is found unattended upon a bridge or causeway or in any tunnel, or on any public highway in the following instances:

1. Where such vehicle constitutes an obstruction of traffic;

2. Where such vehicle has been parked or stored on the public right-of-way for a period exceeding 48 hours, in other than designated parking areas, and is within 30 feet of the pavement edge; and

3. Where an operative vehicle has been parked or stored on the public right-of-way for a period exceeding 10 days, in other than designated parking areas, and is more than 30 feet from the pavement edge. However, the agency removing such vehicle shall be required to report same to the Department of Highway Safety and Motor Vehicles within 24 hours of such removal.

Section 36. Section 316.1967, Florida Statutes, is amended to read:

316.1967 Liability for payment of parking ticket violations and other parking violations.—

(1) The owner of a vehicle is responsible and liable for payment of any parking ticket violation unless the owner can furnish evidence, when required by this subsection, that the vehicle was, at the time of the parking violation, in the care, custody, or control of another person. In such instances, the owner of the vehicle is required, within a reasonable time after notification of the parking violation, to furnish to the appropriate law enforcement authorities an affidavit setting forth the name, address, and driver's license number of the person who leased, rented, or otherwise had the care, custody, or control of the vehicle. The affidavit submitted under this subsection is admissible in a proceeding charging a parking ticket violation and raises the rebuttable presumption that the person identified in the affidavit is responsible for payment of the parking ticket violation. The owner of a vehicle is not responsible for a parking ticket violation if the vehicle involved was, at the time, stolen

or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle. *The owner of a leased vehicle is not responsible for a parking ticket violation and is not required to submit an affidavit or the other evidence specified in this section, if the vehicle is registered in the name of the person who leased the vehicle.*

(2) Any person who is issued a county or municipal parking ticket by a parking enforcement specialist or officer is deemed to be charged with a noncriminal violation and shall comply with the directions on the ticket. If payment is not received or a response to the ticket is not made within the time period specified thereon, the county court or its traffic violations bureau shall notify the registered owner of the vehicle that was cited, *or the registered lessee when the cited vehicle is registered in the name of the person who leased the vehicle*, by mail to the address given on the motor vehicle registration, of the ticket. Mailing the notice to this address constitutes notification. Upon notification, the registered owner or registered lessee shall comply with the court's directive.

(3) Any person who fails to satisfy the court's directive waives his or her right to pay the applicable civil penalty.

(4) Any person who elects to appear before a designated official to present evidence waives his or her right to pay the civil penalty provisions of the ticket. The official, after a hearing, shall make a determination as to whether a parking violation has been committed and may impose a civil penalty not to exceed \$100 or the fine amount designated by county ordinance, plus court costs. Any person who fails to pay the civil penalty within the time allowed by the court is deemed to have been convicted of a parking ticket violation, and the court shall take appropriate measures to enforce collection of the fine.

(5) Any provision of subsections (2), (3), and (4) to the contrary notwithstanding, chapter 318 does not apply to violations of county parking ordinances and municipal parking ordinances.

(6) Any county or municipality may provide by ordinance that the clerk of the court or the traffic violations bureau shall supply the department with a magnetically encoded computer tape reel or cartridge or send by other electronic means data which is machine readable by the installed computer system at the department, listing persons who have three or more outstanding parking violations, including violations of s. 316.1955. Each county shall provide by ordinance that the clerk of the court or the traffic violations bureau shall supply the department with a magnetically encoded computer tape reel or cartridge or send by other electronic means data that is machine readable by the installed computer system at the department, listing persons who have any outstanding violations of s. 316.1955 or any similar local ordinance that regulates parking in spaces designated for use by persons who have disabilities. The department shall mark the appropriate registration records of persons who are so reported. Section 320.03(8) applies to each person whose name appears on the list.

Section 37. Subsection (2) of section 316.2074, Florida Statutes, is amended to read:

316.2074 All-terrain vehicles.—

(2) As used in this section, the term "all-terrain vehicle" means any motorized off-highway vehicle 50 inches or less in width, having a dry weight of 900 pounds or less, designed to travel on three or more low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator with no passenger. *For the purposes of this section, "all-terrain vehicle" also includes any "two-rider ATV" as defined in s. 317.0003.*

Section 38. Paragraph (b) of subsection (1) of section 316.302, Florida Statutes, is amended to read:

316.302 Commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.—

(1)

(b) Except as otherwise provided in this section, all owners or drivers of commercial motor vehicles that are engaged in intrastate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382, 385, and 390-397, with the exception of 49 C.F.R. s. 390.5 as it relates to the definition of bus, as such rules and regulations existed on October 1, 2004 ~~2002~~.

Section 39. Subsection (1) of section 316.605, Florida Statutes, is amended to read:

316.605 Licensing of vehicles.—

(1) Every vehicle, at all times while driven, stopped, or parked upon any highways, roads, or streets of this state, shall be licensed in the name of the owner thereof in accordance with the laws of this state unless such vehicle is not required by the laws of this state to be licensed in this state and shall, except as otherwise provided in s. 320.0706 for front-end registration license plates on truck tractors, display the license plate or both of the license plates assigned to it by the state, one on the rear and, if two, the other on the front of the vehicle, each to be securely fastened to the vehicle outside the main body of the vehicle in such manner as to prevent the plates from swinging, *and with* all letters, numerals, printing, writing, and other identification marks upon the plates *regarding the word "Florida," the registration decal, and the alphanumeric designation shall be* clear and distinct and free from defacement, mutilation, grease, and other obscuring matter, so that they will be plainly visible and legible at all times 100 feet from the rear or front. Nothing shall be placed upon the face of a Florida plate except as permitted by law or by rule or regulation of a governmental agency. No license plates other than those furnished by the state shall be used. However, if the vehicle is not required to be licensed in this state, the license plates on such vehicle issued by another state, by a territory, possession, or district of the United States, or by a foreign country, substantially complying with the provisions hereof, shall be considered as complying with this chapter. A violation of this subsection is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 40. Subsection (4) of section 316.613, Florida Statutes, is amended to read:

316.613 Child restraint requirements.—

(4)(a) It is the legislative intent that all state, county, and local law enforcement agencies, and safety councils, in recognition of the problems with child death and injury from unrestrained occupancy in motor vehicles, conduct a continuing safety and public awareness campaign as to the magnitude of the problem.

~~(b) The department may authorize the expenditure of funds for the purchase of promotional items as part of the public information and education campaigns provided for in this subsection and ss. 316.614, 322.025, and 403.7145.~~

Section 41. Section 316.6131, Florida Statutes, is created to read:

316.6131 Educational expenditures.—The department may authorize the expenditure of funds for the purchase of educational items as part of the public information and education campaigns promoting highway safety and awareness, as well as departmental community-based initiatives. Funds may be expended for, but are not limited to, educational campaigns provided in this chapter, chapters 320 and 322, and s. 403.7145.

Section 42. Subsection (9) of section 316.650, Florida Statutes, is amended to read:

316.650 Traffic citations.—

(9) Such citations shall not be admissible evidence in any trial, *except when used as evidence of falsification, forgery, uttering, fraud, or perjury, or when used as physical evidence resulting from a forensic examination of the citation.*

Section 43. Section 317.0003, Florida Statutes, is amended, to read:

317.0003 Definitions.—As used in *this chapter* ~~ss.—317.0001-317.0013~~, the term:

(1) "ATV" means any motorized off-highway or all-terrain vehicle 50 inches or less in width, having a dry weight of 900 pounds or less, designed to travel on three or more low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator and with no passenger.

(2) "Dealer" means any person authorized by the Department of Revenue to buy, sell, resell, or otherwise distribute off-highway vehicles.

Such person must have a valid sales tax certificate of registration issued by the Department of Revenue and a valid commercial or occupational license required by any county, municipality, or political subdivision of the state in which the person operates.

(3) "Department" means the Department of Highway Safety and Motor Vehicles.

(4) "Florida resident" means a person who has had a principal place of domicile in this state for a period of more than 6 consecutive months, who has registered to vote in this state, who has made a statement of domicile pursuant to s. 222.17, or who has filed for homestead tax exemption on property in this state.

(5) "OHM" or "off-highway motorcycle" means any motor vehicle used off the roads or highways of this state that has a seat or saddle for the use of the rider and is designed to travel with not more than two wheels in contact with the ground, but excludes a tractor or a moped.

(6) "Off-highway vehicle" means any ATV, *two-rider* ATV, or OHM that is used off the roads or highways of this state ~~for recreational purposes and that is not registered and licensed for highway use pursuant to chapter 320.~~

(7) "Owner" means a person, other than a lienholder, having the property in or title to an off-highway vehicle, including a person entitled to the use or possession of an off-highway vehicle subject to an interest held by another person, reserved or created by agreement and securing payment of performance of an obligation, but the term excludes a lessee under a lease not intended as security.

(8) "Public lands" means lands within the state that are available for public use and that are owned, operated, or managed by a federal, state, county, or municipal governmental entity.

(9) "*Two-rider ATV*" means any ATV that is specifically designed by the manufacturer for a single operator and one passenger.

Section 44. Subsection (1) of section 317.0004, Florida Statutes, is amended to read:

317.0004 Administration of off-highway vehicle titling laws; records.—

(1) The administration of off-highway vehicle titling laws in *this chapter ss. 317.0001-317.0013* is under the Department of Highway Safety and Motor Vehicles, which shall provide for the issuing, handling, and recording of all off-highway vehicle titling applications and certificates, including the receipt and accounting of off-highway vehicle titling fees. *The provisions of chapter 319 are applicable to this chapter, unless otherwise explicitly stated.*

Section 45. Section 317.0005, Florida Statutes, is amended to read:

317.0005 Rules, forms, and notices.—

(1) The department may adopt rules pursuant to ss. 120.536(1) and 120.54, which pertain to off-highway vehicle titling, in order to implement the provisions of *this chapter ss. 317.0001-317.0013* conferring duties upon it.

(2) The department shall prescribe and provide suitable forms for applications and other notices and forms necessary to administer the provisions of *this chapter ss. 317.0001-317.0013*.

Section 46. Subsection (1) of section 317.0006, Florida Statutes, is amended to read:

317.0006 Certificate of title required.—

(1) Any off-highway vehicle that is purchased by a resident of this state after the effective date of this act or that is owned by a resident and is operated on the public lands of this state must be titled pursuant to *this chapter ss. 317.0001-317.0013*.

Section 47. Subsection (6) is added to section 317.0007, Florida Statutes, to read:

317.0007 Application for and issuance of certificate of title.—

(6) *In addition to a certificate of title, the department may issue a validation sticker to be placed on the off-highway vehicle as proof of the issuance of title required pursuant to s. 317.0006(1). A validation sticker that is lost or destroyed may, upon application, be replaced by the department or county tax collector. The department and county tax collector may charge and deposit the fees established in ss. 320.03(5), 320.031, and 320.04 for all original and replacement decals.*

Section 48. Subsection (2) of section 317.0008, Florida Statutes, is repealed.

Section 49. Section 317.0010, Florida Statutes, is amended to read:

317.0010 Disposition of fees.—The department shall deposit all funds received under *this chapter ss. 317.0001-317.0013*, less administrative costs of \$2 per title transaction, into the Incidental Trust Fund of the Division of Forestry of the Department of Agriculture and Consumer Services.

Section 50. Subsection (3) of section 317.0012, Florida Statutes, is amended to read:

317.0012 Crimes relating to certificates of title; penalties.—

(3) It is unlawful to:

(a) Alter or forge any certificate of title to an off-highway vehicle or any assignment thereof or any cancellation of any lien on an off-highway vehicle.

(b) Retain or use such certificate, assignment, or cancellation knowing that it has been altered or forged.

(c) Use a false or fictitious name, give a false or fictitious address, or make any false statement in any application or affidavit required by *this chapter ss. 317.0001-317.0013* or in a bill of sale or sworn statement of ownership or otherwise commit a fraud in any application.

(d) Knowingly obtain goods, services, credit, or money by means of an invalid, duplicate, fictitious, forged, counterfeit, stolen, or unlawfully obtained certificate of title, bill of sale, or other indicia of ownership of an off-highway vehicle.

(e) Knowingly obtain goods, services, credit, or money by means of a certificate of title to an off-highway vehicle which certificate is required by law to be surrendered to the department.

Any person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A violation of this subsection with respect to any off-highway vehicle makes such off-highway vehicle contraband which may be seized by a law enforcement agency and forfeited under ss. 932.701-932.704.

Section 51. Section 317.0013, Florida Statutes, is amended to read:

317.0013 Nonmoving traffic violations.—Any person who fails to comply with any provision of *this chapter ss. 317.0001-317.0012* for which a penalty is not otherwise provided commits a nonmoving traffic violation, punishable as provided in s. 318.18.

Section 52. Section 317.0014, Florida Statutes, is created to read:

317.0014 *Certificate of title; issuance in duplicate; delivery; liens and encumbrances.—*

(1) *The department shall assign a number to each certificate of title and shall issue each certificate of title and each corrected certificate in duplicate. The database record shall serve as the duplicate title certificate required in this section. One printed copy may be retained on file by the department.*

(2) *A duly authorized person shall sign the original certificate of title and each corrected certificate and, if there are no liens or encumbrances on the off-highway vehicle, as shown in the records of the department or as shown in the application, shall deliver the certificate to the applicant or to another person as directed by the applicant or person, agent, or attorney submitting the application. If there are one or more liens or encumbrances on the off-highway vehicle, the certificate shall be delivered by the department to the first lienholder as shown by department records or to the owner as indicated in the notice of lien filed by the first*

lienholder. If the notice of lien filed by the first lienholder indicates that the certificate should be delivered to the first lienholder, the department shall deliver to the first lienholder, along with the certificate, a form to be subsequently used by the lienholder as a satisfaction. If the notice of lien filed by the first lienholder directs the certificate of title to be delivered to the owner, then, upon delivery of the certificate of title by the department to the owner, the department shall deliver to the first lienholder confirmation of the receipt of the notice of lien and the date the certificate of title was issued to the owner at the owner's address shown on the notice of lien and a form to be subsequently used by the lienholder as a satisfaction. If the application for certificate shows the name of a first lienholder different from the name of the first lienholder as shown by the records of the department, the certificate may not be issued to any person until after all parties who appear to hold a lien and the applicant for the certificate have been notified of the conflict in writing by the department by certified mail. If the parties do not amicably resolve the conflict within 10 days after the date the notice was mailed, the department shall serve notice in writing by certified mail on all persons appearing to hold liens on that particular vehicle, including the applicant for the certificate, to show cause within 15 days following the date the notice is mailed as to why it should not issue and deliver the certificate to the person indicated in the notice of lien filed by the lienholder whose name appears in the application as the first lienholder without showing any lien or liens as outstanding other than those appearing in the application or those that have been filed subsequent to the filing of the application for the certificate. If, within the 15-day period, any person other than the lienholder shown in the application or a party filing a subsequent lien, in answer to the notice to show cause, appears in person or by a representative, or responds in writing, and files a written statement under oath that his or her lien on that particular vehicle is still outstanding, the department may not issue the certificate to anyone until after the conflict has been settled by the lien claimants involved or by a court of competent jurisdiction. If the conflict is not settled amicably within 10 days after the final date for filing an answer to the notice to show cause, the complaining party shall have 10 days in which to obtain a ruling, or a stay order, from a court of competent jurisdiction. If a ruling or stay order is not issued and served on the department within the 10-day period, it shall issue the certificate showing no liens except those shown in the application or thereafter filed to the original applicant if there are no liens shown in the application and none are thereafter filed, or to the person indicated in the notice of lien filed by the lienholder whose name appears in the application as the first lienholder if there are liens shown in the application or thereafter filed. A duplicate certificate or corrected certificate shall show only the lien or liens as shown in the application and any subsequently filed liens that may be outstanding.

(3) Except as provided in subsection (4), the certificate of title shall be retained by the first lienholder or the owner as indicated in the notice of lien filed by the first lienholder. If the first lienholder is in possession of the certificate, the first lienholder is entitled to retain the certificate until the first lien is satisfied.

(4) If the owner of the vehicle, as shown on the title certificate, desires to place a second or subsequent lien or encumbrance against the vehicle when the title certificate is in the possession of the first lienholder, the owner shall send a written request to the first lienholder by certified mail, and the first lienholder shall forward the certificate to the department for endorsement. If the title certificate is in the possession of the owner, the owner shall forward the certificate to the department for endorsement. The department shall return the certificate to either the first lienholder or to the owner, as indicated in the notice of lien filed by the first lienholder, after endorsing the second or subsequent lien on the certificate and on the duplicate. If the first lienholder or owner fails, neglects, or refuses to forward the certificate of title to the department within 10 days after the date of the owner's request, the department, on the written request of the subsequent lienholder or an assignee of the lien, shall demand of the first lienholder the return of the certificate for the notation of the second or subsequent lien or encumbrance.

(5)(a) Upon satisfaction of any first lien or encumbrance recorded by the department, the owner of the vehicle, as shown on the title certificate, or the person satisfying the lien is entitled to demand and receive from the lienholder a satisfaction of the lien. If the lienholder, upon satisfaction of the lien and upon demand, fails or refuses to furnish a satisfaction of the lien within 30 days after demand, he or she is liable for all costs, damages, and expenses, including reasonable attorney's fees, lawfully incurred by the titled owner or person satisfying the lien in any suit brought in this state for cancellation of the lien. The lienholder receiving

final payment as defined in s. 674.215 shall mail or otherwise deliver a lien satisfaction and the certificate of title indicating the satisfaction within 10 working days after receipt of final payment or notify the person satisfying the lien that the title is not available within 10 working days after receipt of final payment. If the lienholder is unable to provide the certificate of title and notifies the person of such, the lienholder shall provide a lien satisfaction and is responsible for the cost of a duplicate title, including expedited title charges as provided in s. 317.0016. This paragraph does not apply to electronic transactions under subsection (8).

(b) Following satisfaction of a lien, the lienholder shall enter a satisfaction thereof in the space provided on the face of the certificate of title. If the certificate of title was retained by the owner, the owner shall, within 5 days after satisfaction of the lien, deliver the certificate of title to the lienholder and the lienholder shall enter a satisfaction thereof in the space provided on the face of the certificate of title. If no subsequent liens are shown on the certificate of title, the certificate shall be delivered by the lienholder to the person satisfying the lien or encumbrance and an executed satisfaction on a form provided by the department shall be forwarded to the department by the lienholder within 10 days after satisfaction of the lien.

(c) If the certificate of title shows a subsequent lien not then being discharged, an executed satisfaction of the first lien shall be delivered by the lienholder to the person satisfying the lien and the certificate of title showing satisfaction of the first lien shall be forwarded by the lienholder to the department within 10 days after satisfaction of the lien.

(d) If, upon receipt of a title certificate showing satisfaction of the first lien, the department determines from its records that there are no subsequent liens or encumbrances upon the vehicle, the department shall forward to the owner, as shown on the face of the title, a corrected certificate showing no liens or encumbrances. If there is a subsequent lien not being discharged, the certificate of title shall be reissued showing the second or subsequent lienholder as the first lienholder and shall be delivered to either the new first lienholder or to the owner as indicated in the notice of lien filed by the new first lienholder. If the certificate of title is to be retained by the first lienholder on the reissued certificate, the first lienholder is entitled to retain the certificate of title except as provided in subsection (4) until his or her lien is satisfied. Upon satisfaction of the lien, the lienholder is subject to the procedures required of a first lienholder by subsection (4) and this subsection.

(6) When the original certificate of title cannot be returned to the department by the lienholder and evidence satisfactory to the department is produced that all liens or encumbrances have been satisfied, upon application by the owner for a duplicate copy of the certificate upon the form prescribed by the department, accompanied by the fee prescribed in this chapter, a duplicate copy of the certificate of title, without statement of liens or encumbrances, shall be issued by the department and delivered to the owner.

(7) Any person who fails, within 10 days after receipt of a demand by the department by certified mail, to return a certificate of title to the department as required by subsection (4) or who, upon satisfaction of a lien, fails within 10 days after receipt of such demand to forward the appropriate document to the department as required by paragraph (5)(b) or paragraph (5)(c) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) Notwithstanding any requirements in this section or in s. 319.27 indicating that a lien on a vehicle shall be noted on the face of the Florida certificate of title, if there are one or more liens or encumbrances on the off-highway vehicle, the department may electronically transmit the lien to the first lienholder and notify the first lienholder of any additional liens. Subsequent lien satisfactions may be electronically transmitted to the department and must include the name and address of the person or entity satisfying the lien. When electronic transmission of liens and lien satisfactions are used, the issuance of a certificate of title may be waived until the last lien is satisfied and a clear certificate of title is issued to the owner of the vehicle.

(9) In sending any notice, the department is required to use only the last known address, as shown by its records.

Section 53. Section 317.0015, Florida Statutes, is created to read:

317.0015 Application of law.—Sections 319.235, 319.241, 319.25, 319.27, 319.28, and 319.40 apply to all off-highway vehicles that are required to be titled under this chapter.

Section 54. Section 317.0016, Florida Statutes, is created to read:

317.0016 Expedited service; applications; fees.—The department shall provide, through its agents and for use by the public, expedited service on title transfers, title issuances, duplicate titles, recordation of liens, and certificates of repossession. A fee of \$7 shall be charged for this service, which is in addition to the fees imposed by ss. 317.0007 and 317.0008, and \$3.50 of this fee shall be retained by the processing agency. All remaining fees shall be deposited in the Incidental Trust Fund of the Division of Forestry of the Department of Agriculture and Consumer Services. Application for expedited service may be made by mail or in person. The department shall issue each title applied for pursuant to this section within 5 working days after receipt of the application except for an application for a duplicate title certificate covered by s. 317.0008(3), in which case the title must be issued within 5 working days after compliance with the department's verification requirements.

Section 55. Section 317.0017, Florida Statutes, is created to read:

317.0017 Offenses involving vehicle identification numbers, applications, certificates, papers; penalty.—

(1) A person may not:

(a) Alter or forge any certificate of title to an off-highway vehicle or any assignment thereof or any cancellation of any lien on an off-highway vehicle.

(b) Retain or use such certificate, assignment, or cancellation knowing that it has been altered or forged.

(c) Procure or attempt to procure a certificate of title to an off-highway vehicle, or pass or attempt to pass a certificate of title or any assignment thereof to an off-highway vehicle, knowing or having reason to believe that the off-highway vehicle has been stolen.

(d) Possess, sell or offer for sale, conceal, or dispose of in this state an off-highway vehicle, or major component part thereof, on which any motor number or vehicle identification number affixed by the manufacturer or by a state agency has been destroyed, removed, covered, altered, or defaced, with knowledge of such destruction, removal, covering, alteration, or defacement, except as provided in s. 319.30(4).

(e) Use a false or fictitious name, give a false or fictitious address, or make any false statement in any application or affidavit required under this chapter or in a bill of sale or sworn statement of ownership or otherwise commit a fraud in any application.

(2) A person may not knowingly obtain goods, services, credit, or money by means of an invalid, duplicate, fictitious, forged, counterfeit, stolen, or unlawfully obtained certificate of title, registration, bill of sale, or other indicia of ownership of an off-highway vehicle.

(3) A person may not knowingly obtain goods, services, credit, or money by means of a certificate of title to an off-highway vehicle, which certificate is required by law to be surrendered to the department.

(4) A person may not knowingly and with intent to defraud have in his or her possession, sell, offer to sell, counterfeit, or supply a blank, forged, fictitious, counterfeit, stolen, or fraudulently or unlawfully obtained certificate of title, bill of sale, or other indicia of ownership of an off-highway vehicle or conspire to do any of the foregoing.

(5) A person, firm, or corporation may not knowingly possess, manufacture, sell or exchange, offer to sell or exchange, supply in blank, or give away any counterfeit manufacturer's or state-assigned identification number plates or serial plates or any decal used for the purpose of identifying an off-highway vehicle. An officer, agent, or employee of any person, firm, or corporation, or any person may not authorize, direct, aid in exchange, or give away, or conspire to authorize, direct, aid in exchange, or give away, such counterfeit manufacturer's or state-assigned identification number plates or serial plates or any decal. However, this subsection does not apply to any approved replacement manufacturer's or state-assigned identification number plates or serial plates or any decal issued by the department or any state.

(6) A person who violates any provision of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any off-highway vehicle used in violation of this

section constitutes contraband that may be seized by a law enforcement agency and that is subject to forfeiture proceedings pursuant to ss. 932.701-932.704. This section is not exclusive of any other penalties prescribed by any existing or future laws for the larceny or unauthorized taking of off-highway vehicles, but is supplementary thereto.

Section 56. Section 317.0018, Florida Statutes, is created to read:

317.0018 Transfer without delivery of certificate; operation or use without certificate; failure to surrender; other violations.—Except as otherwise provided in this chapter, any person who:

(1) Purports to sell or transfer an off-highway vehicle without delivering to the purchaser or transferee of the vehicle a certificate of title to the vehicle duly assigned to the purchaser as provided in this chapter;

(2) Operates or uses in this state an off-highway vehicle for which a certificate of title is required without the certificate having been obtained in accordance with this chapter, or upon which the certificate of title has been canceled;

(3) Fails to surrender a certificate of title upon cancellation of the certificate by the department and notice thereof as prescribed in this chapter;

(4) Fails to surrender the certificate of title to the department as provided in this chapter in the case of the destruction, dismantling, or change of an off-highway vehicle in such respect that it is not the off-highway vehicle described in the certificate of title; or

(5) Violates any other provision of this chapter or a lawful rule adopted pursuant to this chapter;

shall be fined not more than \$500 or imprisoned for not more than 6 months, or both, for each offense, unless otherwise specified.

Section 57. Subsections (7), (9), and (10) of section 318.14, Florida Statutes, are amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(7)(a) The official having jurisdiction over the infraction shall certify to the department within 10 days after payment of the civil penalty that the defendant has admitted to the infraction. If the charge results in a hearing, the official having jurisdiction shall certify to the department the final disposition within 10 days after the hearing. All dispositions returned to the county requiring a correction shall be resubmitted to the department within 10 days after the notification of the error.

(b) If the official having jurisdiction over the traffic infraction submits the final disposition to the department more than 180 days after the final hearing or after payment of the civil penalty, the department may modify any resulting suspension or revocation action to begin as if the citation were reported in a timely manner.

(9) Any person who does not hold a commercial driver's license and who is cited for an infraction under this section other than a violation of s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court appearance, elect to attend in the location of his or her choice within this state a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles. In such a case, adjudication must be withheld; points, as provided by s. 322.27, may not be assessed; and the civil penalty that is imposed by s. 318.18(3) must be reduced by 18 percent; however, a person may not make an election under this subsection if the person has made an election under this subsection in the preceding 12 months. A person may make no more than five elections under this subsection. The requirement for community service under s. 318.18(8) is not waived by a plea of nolo contendere or by the withholding of adjudication of guilt by a court.

(10)(a) Any person who does not hold a commercial driver's license and who is cited for an offense listed under this subsection may, in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court or authorized operator of a traffic violations bureau. In such case, adjudication shall be withheld; however, no election shall be made under this subsection if such person has made an election under this subsection in the 12 months preceding election hereunder. No person may make more

than three elections under this subsection. This subsection applies to the following offenses:

1. Operating a motor vehicle without a valid driver's license in violation of the provisions of s. 322.03, s. 322.065, or s. 322.15(1), or operating a motor vehicle with a license which has been suspended for failure to appear, failure to pay civil penalty, or failure to attend a driver improvement course pursuant to s. 322.291.
2. Operating a motor vehicle without a valid registration in violation of s. 320.0605, s. 320.07, or s. 320.131.
3. Operating a motor vehicle in violation of s. 316.646.

(b) Any person cited for an offense listed in this subsection shall present proof of compliance prior to the scheduled court appearance date. For the purposes of this subsection, proof of compliance shall consist of a valid, renewed, or reinstated driver's license or registration certificate and proper proof of maintenance of security as required by s. 316.646. Notwithstanding waiver of fine, any person establishing proof of compliance shall be assessed court costs of \$22, except that a person charged with violation of s. 316.646(1)-(3) may be assessed court costs of \$7. One dollar of such costs shall be remitted to the Department of Revenue for deposit into the Child Welfare Training Trust Fund of the Department of Children and Family Services. One dollar of such costs shall be distributed to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund. Twelve dollars of such costs shall be distributed to the municipality and \$8 shall be deposited by the clerk of the court into the fine and forfeiture fund established pursuant to s. 142.01, if the offense was committed within the municipality. If the offense was committed in an unincorporated area of a county or if the citation was for a violation of s. 316.646(1)-(3), the entire amount shall be deposited by the clerk of the court into the fine and forfeiture fund established pursuant to s. 142.01, except for the moneys to be deposited into the Child Welfare Training Trust Fund and the Juvenile Justice Training Trust Fund. This subsection shall not be construed to authorize the operation of a vehicle without a valid driver's license, without a valid vehicle tag and registration, or without the maintenance of required security.

Section 58. Subsection (6) of section 319.23, Florida Statutes, is amended to read:

319.23 Application for, and issuance of, certificate of title.—

(6) In the case of the sale of a motor vehicle or mobile home by a licensed dealer to a general purchaser, the certificate of title shall be obtained in the name of the purchaser by the dealer upon application signed by the purchaser, and in each other case such certificate shall be obtained by the purchaser. In each case of transfer of a motor vehicle or mobile home, the application for certificate of title, or corrected certificate, or assignment or reassignment, shall be filed within 30 days from the delivery of such motor vehicle or mobile home to the purchaser. An applicant shall be required to pay a fee of \$10, in addition to all other fees and penalties required by law, for failing to file such application within the specified time. *When a licensed dealer acquires a motor vehicle or mobile home as a trade-in, the dealer must file with the department, within 30 days, a notice of sale signed by the seller. The department shall update its database for that title record to indicate "sold."* A licensed dealer need not apply for a certificate of title for any motor vehicle or mobile home in stock acquired for stock purposes except as provided in s. 319.225.

Section 59. Subsections (2) and (3) of section 319.27, Florida Statutes, are amended to read:

319.27 Notice of lien on motor vehicles or mobile homes; notation on certificate; recording of lien.—

(2) No lien for purchase money or as security for a debt in the form of a security agreement, retain title contract, conditional bill of sale, chattel mortgage, or other similar instrument or any other nonpossessory lien, including a lien for child support, upon a motor vehicle or mobile home upon which a Florida certificate of title has been issued shall be enforceable in any of the courts of this state against creditors or subsequent purchasers for a valuable consideration and without notice, unless a sworn notice of such lien has been filed in the department and such lien has been noted upon the certificate of title of the motor vehicle or mobile home. Such notice shall be effective as constructive

notice when filed. No interest of a statutory nonpossessory lienor; the interest of a nonpossessory execution, attachment, or equitable lienor; or the interest of a lien creditor as defined in s. 679.1021(1)(zz) ~~s. 679.301(3)~~, if nonpossessory, shall be enforceable against creditors or subsequent purchasers for a valuable consideration unless such interest becomes a possessory lien or is noted upon the certificate of title for the subject motor vehicle or mobile home prior to the occurrence of the subsequent transaction. Provided the provisions of this subsection relating to a nonpossessory statutory lienor; a nonpossessory execution, attachment, or equitable lienor; or the interest of a lien creditor as defined in s. 679.1021(1)(zz) ~~s. 679.301(3)~~ shall not apply to liens validly perfected prior to October 1, 1988. The notice of lien shall provide the following information:

- (a) The date of the lien if a security agreement, retain title contract, conditional bill of sale, chattel mortgage, or other similar instrument was executed prior to the filing of the notice of lien;
- (b) The name and address of the registered owner;
- (c) A description of the motor vehicle or mobile home, showing the make, type, and vehicle identification number; and
- (d) The name and address of the lienholder.

(3)(a) A person may file a notice of lien with regard to a motor vehicle or mobile home before a security agreement, retain title contract, conditional bill of sale, chattel mortgage, or other similar instrument is executed granting a lien, mortgage, or encumbrance on, or a security interest in, such motor vehicle or mobile home.

(b) As applied to a determination of the respective rights of a secured party under this chapter and a lien creditor as defined by s. 679.1021(1)(zz) ~~s. 679.301(3)~~, or a nonpossessory statutory lienor, a security interest under this chapter shall be perfected upon the filing of the notice of lien with the department, the county tax collector, or their agents. Provided, however, the date of perfection of a security interest of such secured party shall be the same date as the execution of the security agreement or other similar instrument if the notice of lien is filed in accordance with this subsection within 15 days after the debtor receives possession of the motor vehicle or mobile home and executes such security agreement or other similar instrument. The date of filing of the notice of lien shall be the date of its receipt by the department central office in Tallahassee, if first filed there, or otherwise by the office of the county tax collector, or their agents.

Section 60. Paragraph (b) of subsection (1) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(1)

(b) Registration license plates bearing a graphic symbol and the alphanumeric system of identification shall be issued for a 5-year period. At the end of said 5-year period, upon renewal, the plate shall be replaced. The fee for such replacement shall be \$10, \$2 of which shall be paid each year before the plate is replaced, to be credited towards the next \$10 replacement fee. The fees shall be deposited into the Highway Safety Operating Trust Fund. A credit or refund shall not be given for any prior years' payments of such prorated replacement fee when the plate is replaced or surrendered before the end of the 5-year period, *except that a credit may be given when a registrant is required by the department to replace a license plate under s. 320.08056(8)(a).* With each license plate, there shall be issued a validation sticker showing the owner's birth month, license plate number, and the year of expiration or the appropriate renewal period if the owner is not a natural person. The validation sticker is to be placed on the upper right corner of the license plate. Such license plate and validation sticker shall be issued based on the applicant's appropriate renewal period. The registration period shall be a period of 12 months, and all expirations shall occur based on the applicant's appropriate registration period. A vehicle with an apportioned registration shall be issued an annual license plate and a cab card that denote the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate.

Section 61. Section 320.0601, Florida Statutes, is amended to read:

320.0601 *Lease and rental car companies; identification of vehicles as for-hire.—*

(1) A rental car company may not rent in this state any for-hire vehicle, other than vehicles designed to transport cargo, that has affixed to its exterior any bumper stickers, insignias, or advertising that identifies the vehicle as a rental vehicle.

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

(a) “Bumper stickers, insignias, or advertising” does not include:

1. Any emblem of no more than two colors which is less than 2 inches by 4 inches, which is placed on the rental car for inventory purposes only, and which does not display the name or logo of the rental car company; or

2. Any license required by the law of the state in which the vehicle is registered.

(b) “Rent in this state” means to sign a rental contract in this state or to deliver a car to a renter in this state.

(3) A rental car company that leases a motor vehicle that is found to be in violation of this section shall be punished by a fine of \$500 per occurrence.

(4) *Any registration or renewal as required under s. 320.02 for an original or transfer of a long-term leased motor vehicle must be in the name and address of the lessee.*

Section 62. Section 320.0605, Florida Statutes, is amended to read:

320.0605 Certificate of registration; possession required; exception.—The registration certificate or an official copy thereof, a true copy of a rental or lease agreement issued for a motor vehicle or issued for a replacement vehicle in the same registration period, a temporary receipt printed upon self-initiated electronic renewal of a registration via the Internet, or a cab card issued for a vehicle registered under the International Registration Plan shall, at all times while the vehicle is being used or operated on the roads of this state, be in the possession of the operator thereof or be carried in the vehicle for which issued and shall be exhibited upon demand of any authorized law enforcement officer or any agent of the department, *except for a vehicle registered under s. 320.0657*. The provisions of this section do not apply during the first 30 days after purchase of a replacement vehicle. A violation of this section is a non-criminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 63. Section 320.0843, Florida Statutes, is amended to read:

320.0843 License plates for persons with disabilities eligible for permanent disabled parking permits.—

(1) Any owner or lessee of a motor vehicle who resides in this state and qualifies for a disabled parking permit under s. 320.0848(2), upon application to the department and payment of the license tax for a motor vehicle registered under s. 320.08(2), (3)(a), (b), (c), or (e), (4)(a) or (b), (6)(a), or (9)(c) or (d), shall be issued a license plate as provided by s. 320.06 which, in lieu of the serial number prescribed by s. 320.06, shall be stamped with the international wheelchair user symbol after the serial number of the license plate. The license plate entitles the person to all privileges afforded by a parking permit issued under s. 320.0848. *When more than one registrant is listed on the registration issued under this section, the eligible applicant shall be noted on the registration certificate.*

(2) All applications for such license plates must be made to the department.

Section 64. Subsection (8) is added to section 320.131, Florida Statutes, to read:

320.131 Temporary tags.—

(8) *The department may administer an electronic system for licensed motor vehicle dealers to use in issuing temporary license plates. Upon issuing a temporary license plate, the dealer shall access the electronic system and enter the appropriate vehicle and owner information within the timeframe specified by department rule. If a dealer fails to comply*

with the department's requirements for issuing temporary license plates using the electronic system, the department may deny, suspend, or revoke a license under s. 320.27(9)(b)16. upon proof that the licensee has failed to comply with the department's requirements. The department may adopt rules to administer this section.

Section 65. Subsection (1) of section 320.18, Florida Statutes, is amended to read:

320.18 Withholding registration.—

(1) The department may withhold the registration of any motor vehicle or mobile home the owner of which has failed to register it under the provisions of law for any previous period or periods for which it appears registration should have been made in this state, until the tax for such period or periods is paid. The department may cancel any *vehicle or vessel registration, driver's license, identification card, license plate* or fuel-use tax decal if the owner pays for the *vehicle or vessel registration, driver's license, identification card, or license plate*, fuel-use tax decal; *pays any administrative, delinquency, or reinstatement fee;* or pays any tax liability, penalty, or interest specified in chapter 207 by a dishonored check, or if the vehicle owner or motor carrier has failed to pay a penalty for a weight or safety violation issued by the Department of Transportation Motor Carrier Compliance Office. The Department of Transportation and the Department of Highway Safety and Motor Vehicles may impound any commercial motor vehicle that has a canceled license plate or fuel-use tax decal until the tax liability, penalty, and interest specified in chapter 207, the license tax, or the fuel-use decal fee, and applicable administrative fees have been paid for by certified funds.

Section 66. Paragraph (a) of subsection (4), subsection (6), and paragraph (b) of subsection (9) of section 320.27, Florida Statutes, are amended to read:

320.27 Motor vehicle dealers.—

(4) LICENSE CERTIFICATE.—

(a) A license certificate shall be issued by the department in accordance with such application when the application is regular in form and in compliance with the provisions of this section. The license certificate may be in the form of a document or a computerized card as determined by the department. The actual cost of each original, additional, or replacement computerized card shall be borne by the licensee and is in addition to the fee for licensure. Such license, when so issued, entitles the licensee to carry on and conduct the business of a motor vehicle dealer. Each license issued to a franchise motor vehicle dealer expires annually on December 31 unless revoked or suspended prior to that date. Each license issued to an independent or wholesale dealer or auction expires annually on April 30 unless revoked or suspended prior to that date. Not less than 60 days prior to the license expiration date, the department shall deliver or mail to each licensee the necessary renewal forms. *Each independent dealer shall certify that the dealer principal (owner, partner, officer of the corporation, or director) has completed 8 hours of continuing education prior to filing the renewal forms with the department. Such certification shall be filed once every 2 years commencing with the 2006 renewal period. The continuing education shall include at least 2 hours of legal or legislative issues, 1 hour of department issues, and 5 hours of relevant motor vehicle industry topics. Continuing education shall be provided by dealer schools licensed under paragraph (b) either in a classroom setting or by correspondence. Such schools shall provide certificates of completion to the department and the customer which shall be filed with the license renewal form, and such schools may charge a fee for providing continuing education.* Any licensee who does not file his or her application and fees and any other requisite documents, as required by law, with the department at least 30 days prior to the license expiration date shall cease to engage in business as a motor vehicle dealer on the license expiration date. A renewal filed with the department within 45 days after the expiration date shall be accompanied by a delinquent fee of \$100. Thereafter, a new application is required, accompanied by the initial license fee. A license certificate duly issued by the department may be modified by endorsement to show a change in the name of the licensee, provided, as shown by affidavit of the licensee, the majority ownership interest of the licensee has not changed or the name of the person appearing as franchisee on the sales and service agreement has not changed. Modification of a license certificate to show any name change as herein provided shall not require initial licensure or reissuance of dealer tags; however, any dealer obtaining a

name change shall transact all business in and be properly identified by that name. All documents relative to licensure shall reflect the new name. In the case of a franchise dealer, the name change shall be approved by the manufacturer, distributor, or importer. A licensee applying for a name change endorsement shall pay a fee of \$25 which fee shall apply to the change in the name of a main location and all additional locations licensed under the provisions of subsection (5). Each initial license application received by the department shall be accompanied by verification that, within the preceding 6 months, the applicant, or one or more of his or her designated employees, has attended a training and information seminar conducted by a *licensed motor vehicle dealer training school* ~~the department~~. Such seminar shall include, but is not limited to, statutory dealer requirements, which requirements include required bookkeeping and recordkeeping procedures, requirements for the collection of sales and use taxes, and such other information that in the opinion of the department will promote good business practices. No seminar may exceed 8 hours in length.

(6) RECORDS TO BE KEPT BY LICENSEE.—Every licensee shall keep a book or record in such form as shall be prescribed or approved by the department for a period of 5 years, in which the licensee shall keep a record of the purchase, sale, or exchange, or receipt for the purpose of sale, of any motor vehicle, the date upon which any temporary tag was issued, the date of title transfer, and a description of such motor vehicle together with the name and address of the seller, the purchaser, and the alleged owner or other person from whom such motor vehicle was purchased or received or to whom it was sold or delivered, as the case may be. Such description shall include the identification or engine number, maker's number, if any, chassis number, if any, and such other numbers or identification marks as may be thereon and shall also include a statement that a number has been obliterated, defaced, or changed, if such is the fact.

(9) DENIAL, SUSPENSION, OR REVOCATION.—

(b) The department may deny, suspend, or revoke any license issued hereunder or under the provisions of s. 320.77 or s. 320.771 upon proof that a licensee has committed, with sufficient frequency so as to establish a pattern of wrongdoing on the part of a licensee, violations of one or more of the following activities:

1. Representation that a demonstrator is a new motor vehicle, or the attempt to sell or the sale of a demonstrator as a new motor vehicle without written notice to the purchaser that the vehicle is a demonstrator. For the purposes of this section, a "demonstrator," a "new motor vehicle," and a "used motor vehicle" shall be defined as under s. 320.60.

2. Unjustifiable refusal to comply with a licensee's responsibility under the terms of the new motor vehicle warranty issued by its respective manufacturer, distributor, or importer. However, if such refusal is at the direction of the manufacturer, distributor, or importer, such refusal shall not be a ground under this section.

3. Misrepresentation or false, deceptive, or misleading statements with regard to the sale or financing of motor vehicles which any motor vehicle dealer has, or causes to have, advertised, printed, displayed, published, distributed, broadcast, televised, or made in any manner with regard to the sale or financing of motor vehicles.

4. Failure by any motor vehicle dealer to provide a customer or purchaser with an odometer disclosure statement and a copy of any bona fide written, executed sales contract or agreement of purchase connected with the purchase of the motor vehicle purchased by the customer or purchaser.

5. Failure of any motor vehicle dealer to comply with the terms of any bona fide written, executed agreement, pursuant to the sale of a motor vehicle.

6. Failure to apply for transfer of a title as prescribed in s. 319.23(6).

7. Use of the dealer license identification number by any person other than the licensed dealer or his or her designee.

8. Failure to continually meet the requirements of the licensure law.

9. Representation to a customer or any advertisement to the public representing or suggesting that a motor vehicle is a new motor vehicle if such vehicle lawfully cannot be titled in the name of the customer or

other member of the public by the seller using a manufacturer's statement of origin as permitted in s. 319.23(1).

10. Requirement by any motor vehicle dealer that a customer or purchaser accept equipment on his or her motor vehicle which was not ordered by the customer or purchaser.

11. Requirement by any motor vehicle dealer that any customer or purchaser finance a motor vehicle with a specific financial institution or company.

12. Requirement by any motor vehicle dealer that the purchaser of a motor vehicle contract with the dealer for physical damage insurance.

13. Perpetration of a fraud upon any person as a result of dealing in motor vehicles, including, without limitation, the misrepresentation to any person by the licensee of the licensee's relationship to any manufacturer, importer, or distributor.

14. Violation of any of the provisions of s. 319.35 by any motor vehicle dealer.

15. Sale by a motor vehicle dealer of a vehicle offered in trade by a customer prior to consummation of the sale, exchange, or transfer of a newly acquired vehicle to the customer, unless the customer provides written authorization for the sale of the trade-in vehicle prior to delivery of the newly acquired vehicle.

16. Willful failure to comply with any administrative rule adopted by the department or the provisions of s. 320.131(8).

17. Violation of chapter 319, this chapter, or ss. 559.901-559.9221, which has to do with dealing in or repairing motor vehicles or mobile homes. Additionally, in the case of used motor vehicles, the willful violation of the federal law and rule in 15 U.S.C. s. 2304, 16 C.F.R. part 455, pertaining to the consumer sales window form.

Section 67. Subsections (8), (10), and (29) of section 322.01, Florida Statutes, are amended to read:

322.01 Definitions.—As used in this chapter:

(8) "Commercial motor vehicle" means any motor vehicle or motor vehicle combination used on the streets or highways, which:

(a) Has a gross vehicle weight rating of 26,001 pounds or more;

~~(b) Has a declared weight of 26,001 pounds or more;~~

~~(c) Has an actual weight of 26,001 pounds or more;~~

~~(b)(d)~~ Is designed to transport more than 15 persons, including the driver; or

~~(c)(e)~~ Is transporting hazardous materials and is required to be placarded in accordance with Title 49 C.F.R. part 172, subpart F.

(10)(a) "Conviction" means a conviction of an offense relating to the operation of motor vehicles on highways which is a violation of this chapter or any other such law of this state or any other state, including an admission or determination of a noncriminal traffic infraction pursuant to s. 318.14, or a judicial disposition of an offense committed under any federal law substantially conforming to the aforesaid state statutory provisions.

(b) Notwithstanding any other provisions of this chapter, the definition of "conviction" provided in 49 C.F.R. part 383.5 applies to offenses committed in a commercial motor vehicle.

(29) "Out-of-service order" means a prohibition issued by an authorized local, state, or Federal Government official which ~~that~~ precludes a person from driving a commercial motor vehicle for a period of 72 hours or less.

Section 68. Subsections (4) and (10) of section 322.05, Florida Statutes, are amended to read:

322.05 Persons not to be licensed.—The department may not issue a license:

(4) Except as provided by this subsection, to any person, as a Class A licensee, Class B licensee, or Class C licensee, ~~or Class D licensee~~, who is under the age of 18 years. ~~A person age 16 or 17 years who applies for a Class D driver's license is subject to all the requirements and provisions of paragraphs (2)(a) and (b) and ss. 322.09 and 322.16(2) and (3). The department may require of any such applicant for a Class D driver's license such examination of the qualifications of the applicant as the department considers proper, and the department may limit the use of any license granted as it considers proper.~~

(10) To any person, when the department has good cause to believe that the operation of a motor vehicle on the highways by such person would be detrimental to public safety or welfare. Deafness alone shall not prevent the person afflicted from being issued a ~~Class D or~~ Class E driver's license.

Section 69. Paragraph (a) of subsection (1) and paragraphs (b) and (c) of subsection (2) of section 322.051, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

322.051 Identification cards.—

(1) Any person who is 12 years of age or older, or any person who has a disability, regardless of age, who applies for a disabled parking permit under s. 320.0848, may be issued an identification card by the department upon completion of an application and payment of an application fee.

(a) Each such application shall include the following information regarding the applicant:

1. Full name (first, middle or maiden, and last), gender, social security card number, county of residence and mailing address, country of birth, and a brief description.

2. Proof of birth date satisfactory to the department.

3. Proof of identity satisfactory to the department. Such proof must include one of the following documents issued to the applicant:

a. A driver's license record or identification card record from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under sub-subparagraph b., sub-subparagraph c., sub-subparagraph d., sub-subparagraph e., ~~or sub-subparagraph f.~~, or sub-subparagraph g.;

b. A certified copy of a United States birth certificate;

c. A valid United States passport;

d. A naturalization certificate issued by the United States Department of Homeland Security;

~~e.~~ An alien registration receipt card (green card);

~~f.~~ An employment authorization card issued by the United States Department of Homeland Security; or

~~g.~~ Proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original identification card. In order to prove such nonimmigrant classification, applicants may produce but are not limited to the following documents:

(I) A notice of hearing from an immigration court scheduling a hearing on any proceeding.

(II) A notice from the Board of Immigration Appeals acknowledging pendency of an appeal.

(III) Notice of the approval of an application for adjustment of status issued by the United States Bureau of Citizenship and Immigration Services.

(IV) Any official documentation confirming the filing of a petition for asylum status or any other relief issued by the United States Bureau of Citizenship and Immigration Services.

(V) Notice of action transferring any pending matter from another jurisdiction to Florida, issued by the United States Bureau of Citizenship and Immigration Services.

(VI) Order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States including, but not limited to, asylum.

Presentation of any of the foregoing documents described in sub-subparagraph f. or sub-subparagraph g. entitles ~~shall entitle~~ the applicant to an identification card ~~a driver's license or temporary permit~~ for a period not to exceed the expiration date of the document presented or 2 years, whichever first occurs.

(2)

(b) Notwithstanding any other provision of this chapter, if an applicant establishes his or her identity for an identification card using a document authorized under sub-subparagraph (1)(a)3.e. ~~(1)(a)3.d.~~, the identification card shall expire on the fourth birthday of the applicant following the date of original issue or upon first renewal or duplicate issued after implementation of this section. After an initial showing of such documentation, he or she is exempted from having to renew or obtain a duplicate in person.

(c) Notwithstanding any other provisions of this chapter, if an applicant establishes his or her identity for an identification card using an identification document authorized under sub-subparagraph (1)(a)3.f. or sub-subparagraph (1)(a)3.g. ~~sub-subparagraphs (1)(a)3.e.-f.~~, the identification card shall expire 2 years after the date of issuance or upon the expiration date cited on the United States Department of Homeland Security documents, whichever date first occurs, and may not be renewed or obtain a duplicate except in person.

(8) *The department shall, upon receipt of the required fee, issue to each qualified applicant for an identification card a color photographic or digital image identification card bearing a fullface photograph or digital image of the identification cardholder. Notwithstanding chapter 761 or s. 761.05, the requirement for a fullface photograph or digital image of the identification cardholder may not be waived. A space shall be provided upon which the identification cardholder shall affix his or her usual signature, as required in s. 322.14, in the presence of an authorized agent of the department so as to ensure that such signature becomes a part of the identification card.*

Section 70. Subsections (2) and (3) of section 322.07, Florida Statutes, are amended to read:

322.07 Instruction permits and temporary licenses.—

(2) The department may, in its discretion, issue a temporary permit to an applicant for a ~~Class D or~~ Class E driver's license permitting him or her to operate a motor vehicle of the type for which a ~~Class D or~~ Class E driver's license is required while the department is completing its investigation and determination of all facts relative to such applicant's right to receive a driver's license. Such permit must be in his or her immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused.

(3) Any person who, except for his or her lack of instruction in operating a ~~Class D or~~ commercial motor vehicle, would otherwise be qualified to obtain a ~~Class D or~~ commercial driver's license under this chapter, may apply for a ~~temporary Class D or~~ temporary commercial instruction permit. The department shall issue such a permit entitling the applicant, while having the permit in his or her immediate possession, to drive a ~~Class D or~~ commercial motor vehicle on the highways, provided that:

(a) The applicant possesses a valid driver's license issued in any state; and

(b) The applicant, while operating a ~~Class D or~~ commercial motor vehicle, is accompanied by a licensed driver who is 21 years of age or older, who is licensed to operate the class of vehicle being operated, and who is actually occupying the closest seat to the right of the driver.

Section 71. Subsection (2) of section 322.08, Florida Statutes, is amended to read:

322.08 Application for license.—

(2) Each such application shall include the following information regarding the applicant:

(a) Full name (first, middle or maiden, and last), gender, social security card number, county of residence and mailing address, country of birth, and a brief description.

(b) Proof of birth date satisfactory to the department.

(c) Proof of identity satisfactory to the department. Such proof must include one of the following documents issued to the applicant:

1. A driver's license record or identification card record from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., ~~or~~ subparagraph 6., or subparagraph 7.;

2. A certified copy of a United States birth certificate;

3. A ~~valid~~ United States passport;

4. A naturalization certificate issued by the United States Department of Homeland Security;

5.4. An alien registration receipt card (green card);

6.5. An employment authorization card issued by the United States Department of Homeland Security; or

7.6. Proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original driver's license. In order to prove nonimmigrant classification, an applicant may produce the following documents, including, but not limited to:

a. A notice of hearing from an immigration court scheduling a hearing on any proceeding.

b. A notice from the Board of Immigration Appeals acknowledging pendency of an appeal.

c. A notice of the approval of an application for adjustment of status issued by the United States Immigration and Naturalization Service.

d. Any official documentation confirming the filing of a petition for asylum status or any other relief issued by the United States Immigration and Naturalization Service.

e. A notice of action transferring any pending matter from another jurisdiction to this state issued by the United States Immigration and Naturalization Service.

f. An order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States, including, but not limited to, asylum.

Presentation of any of the documents in subparagraph 6. or subparagraph 7. entitles the applicant to a driver's license or temporary permit for a period not to exceed the expiration date of the document presented or 2 years, whichever occurs first.

(d) Whether the applicant has previously been licensed to drive, and, if so, when and by what state, and whether any such license or driving privilege has ever been disqualified, revoked, or suspended, or whether an application has ever been refused, and, if so, the date of and reason for such disqualification, suspension, revocation, or refusal.

(e) Each such application may include fingerprints and other unique biometric means of identity.

Section 72. Paragraph (a) of subsection (1) of section 322.09, Florida Statutes, is amended to read:

322.09 Application of minors; responsibility for negligence or misconduct of minor.—

(1)(a) The application of any person under the age of 18 years for a driver's license must be signed and verified before a person authorized to administer oaths by the father, mother, or guardian; by a secondary guardian if the primary guardian dies before the minor reaches 18 years of age; or, if there is no parent or guardian, by another responsible adult who is willing to assume the obligation imposed under this chapter upon a person signing the application of a minor. This section does not apply to a person under the age of 18 years who is emancipated by marriage.

Section 73. Section 322.11, Florida Statutes, is amended to read:

322.11 Revocation of license upon death of person signing minor's application.—The department, upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for a license, shall, 90 days after giving written notice to the minor, cancel such license and may ~~shall~~ not issue a new license until ~~such time as~~ the new application, ~~duely~~ signed and verified, is made as required by this chapter. This provision *does shall* not apply if ~~in the event~~ the minor has attained the age of 18 years.

Section 74. Subsection (3) of section 322.12, Florida Statutes, is amended to read:

322.12 Examination of applicants.—

(3) For an applicant for a ~~Class D or a Class E~~ driver's license, such examination shall include a test of the applicant's eyesight given by the driver's license examiner designated by the department or by a licensed ophthalmologist, optometrist, or physician and a test of the applicant's hearing given by a driver's license examiner or a licensed physician. The examination shall also include a test of the applicant's ability to read and understand highway signs regulating, warning, and directing traffic; his or her knowledge of the traffic laws of this state, including laws regulating driving under the influence of alcohol or controlled substances, driving with an unlawful blood-alcohol level, and driving while intoxicated; and his or her knowledge of the effects of alcohol and controlled substances upon persons and the dangers of driving a motor vehicle while under the influence of alcohol or controlled substances and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

Section 75. Subsections (1) and (4) of section 322.135, Florida Statutes, are amended, and subsection (9) is added to that section, to read:

322.135 Driver's license agents.—

(1) The department may, upon application, authorize any or all of the tax collectors in the several counties of the state, subject to the requirements of law, in accordance with rules of the department, to serve as its agent for the provision of specified driver's license services.

(a) These services shall be limited to the issuance of driver's licenses and identification cards as authorized by this chapter.

(b) Each tax collector who is authorized by the department to provide driver's license services shall bear all costs associated with providing those services.

(c) A fee of \$5.25 is to be charged, in addition to the fees set forth in this chapter, for any driver's license issued or renewed by a tax collector. ~~One dollar of the \$5.25 fee must be deposited into the Highway Safety Operating Trust Fund.~~

(4) A tax collector may not issue or renew a driver's license if he or she has any reason to believe that the licensee or prospective licensee is physically or mentally unqualified to operate a motor vehicle. The tax collector *may shall* direct any such licensee to the department for examination or reexamination under s. 322.221.

(9) *Notwithstanding chapter 116, each county officer within this state who is authorized to collect funds provided for in this chapter shall pay all sums officially received by the officer into the State Treasury no later than 5 working days after the close of the business day in which the officer received the funds. Payment by county officers to the state shall be made by means of electronic funds transfers.*

Section 76. Subsection (1) of section 322.142, Florida Statutes, is amended to read:

322.142 Color photographic or digital imaged licenses.—

(1) The department shall, upon receipt of the required fee, issue to each qualified applicant for a ~~an original~~ driver's license a color photographic or digital imaged driver's license bearing a fullface photograph or digital image of the licensee. *Notwithstanding chapter 761 or s. 761.05, the requirement for a fullface photograph or digital image of the licensee may not be waived.* A space shall be provided upon which the licensee shall affix his or her usual signature, as required in s. 322.14,

in the presence of an authorized agent of the department so as to ensure that such signature becomes a part of the license.

Section 77. Paragraph (a) of subsection (1) and subsection (2) of section 322.161, Florida Statutes, are amended to read:

322.161 High-risk drivers; restricted licenses.—

(1)(a) Notwithstanding any provision of law to the contrary, the department shall restrict the driving privilege of any ~~Class D or~~ Class E licensee who is age 15 through 17 and who has accumulated six or more points pursuant to s. 318.14, excluding parking violations, within a 12-month period.

~~(2)(a) Any Class E licensee who is age 15 through 17 and who has accumulated six or more points pursuant to s. 318.14, excluding parking violations, within a 12-month period shall not be eligible to obtain a Class D license for a period of no less than 1 year. The period of ineligibility shall begin on the date of conviction for the violation that results in the licensee's accumulation of six or more points.~~

~~(b) The period of ineligibility shall automatically expire after 1 year if the licensee does not accumulate any additional points. If the licensee accumulates any additional points, then the period of ineligibility shall be extended 90 days for each point. The period of ineligibility shall also automatically expire upon the licensee's 18th birthday if no other grounds for ineligibility exist.~~

Section 78. Subsection (3) of section 322.17, Florida Statutes, is amended to read:

322.17 Duplicate and replacement certificates.—

(3) Notwithstanding any other provisions of this chapter, if a licensee establishes his or her identity for a driver's license using an identification document authorized under s. 322.08(2)(c)6. or 7. ~~s. 322.08(2)(e)5-6.~~, the licensee may not obtain a duplicate or replacement instruction permit or driver's license except in person and upon submission of an identification document authorized under s. 322.08(2)(c)6. or 7. ~~s. 322.08(2)(e)5-6.~~

Section 79. Subsections (2) and (4) of section 322.18, Florida Statutes, are amended to read:

322.18 Original applications, licenses, and renewals; expiration of licenses; delinquent licenses.—

(2) Each applicant who is entitled to the issuance of a driver's license, as provided in this section, shall be issued a driver's license, as follows:

(a) An applicant applying for an original issuance shall be issued a driver's license which expires at midnight on the licensee's birthday which next occurs on or after the sixth anniversary of the date of issue.

(b) An applicant applying for a renewal issuance or renewal extension shall be issued a driver's license or renewal extension sticker which expires at midnight on the licensee's birthday which next occurs 4 years after the month of expiration of the license being renewed, except that a driver whose driving record reflects no convictions for the preceding 3 years shall be issued a driver's license or renewal extension sticker which expires at midnight on the licensee's birthday which next occurs 6 years after the month of expiration of the license being renewed.

(c) Notwithstanding any other provision of this chapter, if an applicant establishes his or her identity for a driver's license using a document authorized under s. 322.08(2)(c)5. ~~s. 322.08(2)(e)4.~~, the driver's license shall expire in accordance with paragraph (b). After an initial showing of such documentation, he or she is exempted from having to renew or obtain a duplicate in person.

(d) Notwithstanding any other provision of this chapter, if applicant establishes his or her identity for a driver's license using a document authorized in s. 322.08(2)(c)6. or 7. ~~s. 322.08(2)(e)5- or 6.~~, the driver's license shall expire 2 4 years after the date of issuance or upon the expiration date cited on the United States Department of Homeland Security documents, whichever date first occurs.

(e) Notwithstanding any other provision of this chapter, an applicant applying for an original or renewal issuance of a commercial driver's

license as defined in s. 322.01(7), with a hazardous-materials endorsement, pursuant to s. 322.57(1)(e), shall be issued a driver's license that expires at midnight on the licensee's birthday that next occurs 4 years after the month of expiration of the license being issued or renewed.

(4)(a) Except as otherwise provided in this chapter, all licenses shall be renewable every 4 years or 6 years, depending upon the terms of issuance and shall be issued or extended upon application, payment of the fees required by s. 322.21, and successful passage of any required examination, unless the department has reason to believe that the licensee is no longer qualified to receive a license.

(b) Notwithstanding any other provision of this chapter, if an applicant establishes his or her identity for a driver's license using a document authorized under s. 322.08(2)(c)5. ~~s. 322.08(2)(e)4.~~, the licensee, upon an initial showing of such documentation, is exempted from having to renew or obtain a duplicate in person, unless the renewal or duplication coincides with the periodic reexamination of a driver as required pursuant to s. 322.121.

(c) Notwithstanding any other provision of this chapter, if a licensee establishes his or her identity for a driver's license using an identification document authorized under s. 322.08(2)(c)6. or 7. ~~s. 322.08(2)(e)5- or 6.~~, the licensee may not renew the driver's license except in person and upon submission of an identification document authorized under s. 322.08(2)(c)6. or 7. ~~s. 322.08(2)(e)4-6.~~ A driver's license renewed under this paragraph expires 4 years after the date of issuance or upon the expiration date cited on the United States Department of Homeland Security documents, whichever date first occurs.

Section 80. Subsection (4) of section 322.19, Florida Statutes, is amended to read:

322.19 Change of address or name.—

(4) Notwithstanding any other provision of this chapter, if a licensee established his or her identity for a driver's license using an identification document authorized under s. 322.08(2)(c)6. or 7. ~~s. 322.08(2)(e)5-6.~~, the licensee may not change his or her name or address except in person and upon submission of an identification document authorized under s. 322.08(2)(c)6. or 7. ~~s. 322.08(2)(e)4-6.~~

Section 81. Subsection (1) of section 322.21, Florida Statutes, is amended to read:

322.21 License fees; procedure for handling and collecting fees.—

(1) Except as otherwise provided herein, the fee for:

(a) An original or renewal commercial driver's license is \$50, which shall include the fee for driver education provided by s. 1003.48; however, if an applicant has completed training and is applying for employment or is currently employed in a public or nonpublic school system that requires the commercial license, the fee shall be the same as for a Class E driver's license. A delinquent fee of \$1 shall be added for a renewal made not more than 12 months after the license expiration date.

(b) An original ~~Class D or~~ Class E driver's license is \$20, which shall include the fee for driver's education provided by s. 1003.48; however, if an applicant has completed training and is applying for employment or is currently employed in a public or nonpublic school system that requires a commercial driver license, the fee shall be the same as for a Class E license.

(c) The renewal or extension of a ~~Class D or~~ Class E driver's license or of a license restricted to motorcycle use only is \$15, except that a delinquent fee of \$1 shall be added for a renewal or extension made not more than 12 months after the license expiration date. The fee provided in this paragraph shall include the fee for driver's education provided by s. 1003.48.

(d) An original driver's license restricted to motorcycle use only is \$20, which shall include the fee for driver's education provided by s. 1003.48.

(e) Each endorsement required by s. 322.57 is \$5.

(f) A hazardous-materials endorsement, as required by s. 322.57(1)(d), shall be set by the department by rule and shall reflect the

cost of the required criminal history check, including the cost of the state and federal fingerprint check, and the cost to the department of providing and issuing the license. The fee shall not exceed \$100. This fee shall be deposited in the Highway Safety Operating Trust Fund. The department may adopt rules to administer this section.

Section 82. Present subsection (7) of section 322.212, Florida Statutes, is redesignated as subsection (8), and a new subsection (7) is added to that section, to read:

322.212 Unauthorized possession of, and other unlawful acts in relation to, driver's license or identification card.—

(7) In addition to any other penalties provided by this section, any person who provides false information when applying for a commercial driver's license shall be disqualified from operating a commercial motor vehicle for a period of 60 days.

Section 83. Subsection (1) of section 322.22, Florida Statutes, is amended to read:

322.22 Authority of department to cancel license.—

(1) The department is authorized to cancel any driver's license, upon determining that the licensee was not entitled to the issuance thereof, or that the licensee failed to give the required or correct information in his or her application or committed any fraud in making such application, or that the licensee has two or more licenses on file with the department, each in a different name but bearing the photograph of the licensee, unless the licensee has complied with the requirements of this chapter in obtaining the licenses. The department may cancel any driver's license, *identification card, vehicle or vessel registration, or fuel-use decal* if the licensee fails to pay the correct fee or pays for the *driver's license, identification card, vehicle or vessel registration, or fuel-use decal; pays any tax liability, penalty, or interest specified in chapter 207; or pays any administrative, delinquency, or reinstatement fee by a dishonored check.*

Section 84. Subsections (4) and (5) of section 322.251, Florida Statutes, are amended to read:

322.251 Notice of cancellation, suspension, revocation, or disqualification of license.—

(4) A person whose privilege to operate a commercial motor vehicle is temporarily disqualified may, upon surrendering his or her commercial driver's license, be issued a ~~Class D or~~ Class E driver's license, valid for the length of his or her unexpired commercial driver's license, at no cost. Such person may, upon the completion of his or her disqualification, be issued a commercial driver's license, of the type disqualified, for the remainder of his or her unexpired license period. Any such person shall pay the reinstatement fee provided in s. 322.21 before being issued a commercial driver's license.

(5) A person whose privilege to operate a commercial motor vehicle is permanently disqualified may, upon surrendering his or her commercial driver's license, be issued a ~~Class D or~~ Class E driver's license, if he or she is otherwise qualified to receive such license. Any such person shall be issued a ~~Class D or~~ Class E license, valid for the remainder of his or her unexpired license period, at no cost.

Section 85. Subsections (1), (7), (10), and (11) of section 322.2615, Florida Statutes, are amended to read:

322.2615 Suspension of license; right to review.—

(1)(a) A law enforcement officer or correctional officer shall, on behalf of the department, suspend the driving privilege of a person who has been arrested by a law enforcement officer for a violation of s. 316.193, relating to unlawful blood-alcohol level or breath-alcohol level, or of a person who has refused to submit to a breath, urine, or blood test authorized by s. 316.1932. The officer shall take the person's driver's license and issue the person a 10-day temporary permit if the person is otherwise eligible for the driving privilege and shall issue the person a notice of suspension. If a blood test has been administered, the results of which are not available to the officer at the time of the arrest, the agency employing the officer shall transmit such results to the department within 5 days after receipt of the results. If the department then determines that the person was arrested for a violation of s. 316.193 and that

the person had a blood-alcohol level or breath-alcohol level of 0.08 or higher, the department shall suspend the person's driver's license pursuant to subsection (3).

(b) The suspension under paragraph (a) shall be pursuant to, and the notice of suspension shall inform the driver of, the following:

1.a. The driver refused to submit to a lawful breath, blood, or urine test and his or her driving privilege is suspended for a period of 1 year for a first refusal or for a period of 18 months if his or her driving privilege has been previously suspended as a result of a refusal to submit to such a test; or

b. The driver violated s. 316.193 by driving with an unlawful blood-alcohol level or *breath-alcohol level* as provided in that section and his or her driving privilege is suspended for a period of 6 months for a first offense or for a period of 1 year if his or her driving privilege has been previously suspended for a violation of s. 316.193.

2. The suspension period shall commence on the date of arrest or issuance of the notice of suspension, whichever is later.

3. The driver may request a formal or informal review of the suspension by the department within 10 days after the date of arrest or issuance of the notice of suspension, whichever is later.

4. The temporary permit issued at the time of arrest will expire at midnight of the 10th day following the date of arrest or issuance of the notice of suspension, whichever is later.

5. The driver may submit to the department any materials relevant to the arrest.

(7) In a formal review hearing under subsection (6) or an informal review hearing under subsection (4), the hearing officer shall determine by a preponderance of the evidence whether sufficient cause exists to sustain, amend, or invalidate the suspension. The scope of the review shall be limited to the following issues:

(a) If the license was suspended for driving with an unlawful blood-alcohol level or *breath-alcohol level* in violation of s. 316.193:

1. Whether the arresting law enforcement officer had probable cause to believe that the person was driving or in actual physical control of a motor vehicle in this state while under the influence of alcoholic beverages or controlled substances.

2. Whether the person was placed under lawful arrest for a violation of s. 316.193.

3. Whether the person had an unlawful blood-alcohol level or *breath-alcohol level* as provided in s. 316.193.

(b) If the license was suspended for refusal to submit to a breath, blood, or urine test:

1. Whether the arresting law enforcement officer had probable cause to believe that the person was driving or in actual physical control of a motor vehicle in this state while under the influence of alcoholic beverages or controlled substances.

2. Whether the person was placed under lawful arrest for a violation of s. 316.193.

3. Whether the person refused to submit to any such test after being requested to do so by a law enforcement officer or correctional officer.

4. Whether the person was told that if he or she refused to submit to such test his or her privilege to operate a motor vehicle would be suspended for a period of 1 year or, in the case of a second or subsequent refusal, for a period of 18 months.

(10) A person whose driver's license is suspended under subsection (1) or subsection (3) may apply for issuance of a license for business or employment purposes only if the person is otherwise eligible for the driving privilege pursuant to s. 322.271.

(a) If the suspension of the driver's license of the person for failure to submit to a breath, urine, or blood test is sustained, the person is not eligible to receive a license for business or employment purposes only,

pursuant to s. 322.271, until 90 days have elapsed after the expiration of the last temporary permit issued. If the driver is not issued a 10-day permit pursuant to this section or s. 322.64 because he or she is ineligible for the permit and the suspension for failure to submit to a breath, urine, or blood test is not invalidated by the department, the driver is not eligible to receive a business or employment license pursuant to s. 322.271 until 90 days have elapsed from the date of the suspension.

(b) If the suspension of the driver's license of the person arrested for a violation of s. 316.193, relating to unlawful blood-alcohol level, or *breath-alcohol level* is sustained, the person is not eligible to receive a license for business or employment purposes only pursuant to s. 322.271 until 30 days have elapsed after the expiration of the last temporary permit issued. If the driver is not issued a 10-day permit pursuant to this section or s. 322.64 because he or she is ineligible for the permit and the suspension for a violation of s. 316.193, relating to unlawful blood-alcohol level, is not invalidated by the department, the driver is not eligible to receive a business or employment license pursuant to s. 322.271 until 30 days have elapsed from the date of the arrest.

(11) The formal review hearing may be conducted upon a review of the reports of a law enforcement officer or a correctional officer, including documents relating to the administration of a breath test or blood test or the refusal to take either test or *the refusal to take a urine test*. However, as provided in subsection (6), the driver may subpoena the officer or any person who administered or analyzed a breath or blood test.

Section 86. Paragraph (d) of subsection (3) of section 322.27, Florida Statutes, is amended to read:

322.27 Authority of department to suspend or revoke license.—

(3) There is established a point system for evaluation of convictions of violations of motor vehicle laws or ordinances, and violations of applicable provisions of s. 403.413(6)(b) when such violations involve the use of motor vehicles, for the determination of the continuing qualification of any person to operate a motor vehicle. The department is authorized to suspend the license of any person upon showing of its records or other good and sufficient evidence that the licensee has been convicted of violation of motor vehicle laws or ordinances, or applicable provisions of s. 403.413(6)(b), amounting to 12 or more points as determined by the point system. The suspension shall be for a period of not more than 1 year.

(d) The point system shall have as its basic element a graduated scale of points assigning relative values to convictions of the following violations:

1. Reckless driving, willful and wanton—4 points.
2. Leaving the scene of a crash resulting in property damage of more than \$50—6 points.
3. Unlawful speed resulting in a crash—6 points.
4. Passing a stopped school bus—4 points.
5. Unlawful speed:
 - a. Not in excess of 15 miles per hour of lawful or posted speed—3 points.
 - b. In excess of 15 miles per hour of lawful or posted speed—4 points.
6. All other moving violations (including parking on a highway outside the limits of a municipality)—3 points. However, no points shall be imposed for a violation of s. 316.0741 or s. 316.2065(12).
7. Any moving violation covered above, excluding unlawful speed, resulting in a crash—4 points.
8. Any conviction under s. 403.413(6)(b) s. 403.413(5)(b)—3 points.
9. Any conviction under s. 316.0775(2)—4 points.

Section 87. Section 322.30, Florida Statutes, is amended to read:

322.30 No operation under foreign license during suspension, revocation, or disqualification in this state.—

(1) Any resident or nonresident whose driver's license or right or privilege to operate a motor vehicle in this state has been suspended, revoked, or disqualified as provided in this chapter, shall not operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during such suspension, revocation, or disqualification until a new license is obtained.

(2) Notwithstanding subsection (1), any commercial motor vehicle operator whose privilege to operate such vehicle is disqualified may operate a motor vehicle in this state as a ~~Class D~~ or Class E licensee, if authorized by this chapter.

Section 88. Paragraph (b) of subsection (2) and subsections (4), (5), and (6) of section 322.53, Florida Statutes, are amended to read:

322.53 License required; exemptions.—

(2) The following persons are exempt from the requirement to obtain a commercial driver's license:

(b) Military personnel driving ~~military~~ vehicles *operated for military purposes*.

~~(4) A resident who is exempt from obtaining a commercial driver's license pursuant to paragraph (2)(a) or paragraph (2)(c) and who drives a commercial motor vehicle must obtain a Class D driver's license endorsed to authorize the operation of the particular type of vehicle for which his or her exemption is granted.~~

~~(4)(5) A resident who is exempt from obtaining a commercial driver's license pursuant to paragraph (2)(b), paragraph (2)(d), paragraph (2)(e), or paragraph (2)(f) may drive a commercial motor vehicle pursuant to the exemption granted in paragraph (2)(b), paragraph (2)(d), paragraph (2)(e), or paragraph (2)(f) if he or she possesses a valid Class D or Class E driver's license or a military license.~~

~~(5)(6) The department shall adopt rules and enter into necessary agreements with other jurisdictions to provide for the operation of commercial vehicles by nonresidents pursuant to the exemption granted in subsection (2).~~

Section 89. Subsection (2) of section 322.54, Florida Statutes, is amended to read:

322.54 Classification.—

(2) The department shall issue, pursuant to the requirements of this chapter, drivers' licenses in accordance with the following classifications:

(a) Any person who drives a motor vehicle combination having a gross vehicle weight rating, ~~a declared weight, or an actual weight, whichever is greatest~~, of 26,001 pounds or more must possess a valid Class A driver's license, provided the gross vehicle weight rating, ~~declared weight, or actual weight, whichever is greatest~~, of the vehicle being towed is more than 10,000 pounds. Any person who possesses a valid Class A driver's license may, subject to the appropriate restrictions and endorsements, drive any class of motor vehicle within this state.

(b) Any person, except a person who possesses a valid Class A driver's license, who drives a motor vehicle having a gross vehicle weight rating, ~~a declared weight, or an actual weight, whichever is greatest~~, of 26,001 pounds or more must possess a valid Class B driver's license. Any person, except a person who possesses a valid Class A driver's license, who drives such vehicle towing a vehicle having a gross vehicle weight rating, ~~a declared weight, or an actual weight, whichever is greatest~~, of 10,000 pounds or less must possess a valid Class B driver's license. Any person who possesses a valid Class B driver's license may, subject to the appropriate restrictions and endorsements, drive any class of motor vehicle, other than the type of motor vehicle for which a Class A driver's license is required, within this state.

~~(c) Any person, except a person who possesses a valid Class A or a valid Class B driver's license, who drives a motor vehicle combination having a gross vehicle weight rating, a declared weight, or an actual weight, whichever is greatest, of 26,001 pounds or more must possess a valid Class C driver's license. Any person, except a person who possesses a valid Class A or a valid Class B driver's license, who drives a motor vehicle combination having a gross vehicle weight rating, a declared~~

weight, or an actual weight, whichever is greatest, of less than 26,001 pounds and who is required to obtain an endorsement pursuant to paragraph (1)(a), paragraph (1)(b), paragraph (1)(c), paragraph (1)(d), or paragraph (1)(e) of s. 322.57, must possess a valid Class C driver's license that is clearly restricted to the operation of a motor vehicle or motor vehicle combination of less than 26,001 pounds. Any person who possesses a valid Class C driver's license may, subject to the appropriate restrictions and endorsements, drive any class of motor vehicle, other than the type of motor vehicle for which a Class A or a Class B driver's license is required, within this state.

(d) ~~Any person, except a person who possesses a valid Class A, valid Class B, or valid Class C driver's license, who drives a truck or a truck tractor having a gross vehicle weight rating, a declared weight, or an actual weight, whichever is greatest, of 8,000 pounds or more but less than 26,001 pounds, or which has a width of more than 80 inches must possess a valid Class D driver's license. Any person who possesses a valid Class D driver's license may, subject to the appropriate restrictions and endorsements, drive any type of motor vehicle, other than the type of motor vehicle for which a Class A, Class B, or Class C driver's license is required, within this state.~~

(d)(e) Any person, except a person who possesses a valid Class A, valid Class B, or valid Class C, or ~~valid Class D~~ driver's license, who drives a motor vehicle must possess a valid Class E driver's license. Any person who possesses a valid Class E driver's license may, subject to the appropriate restrictions and endorsements, drive any type of motor vehicle, other than the type of motor vehicle for which a Class A, Class B, or Class C, or ~~Class D~~ driver's license is required, within this state.

Section 90. Subsections (1) and (2) of section 322.57, Florida Statutes, are amended to read:

322.57 Tests of knowledge concerning specified vehicles; endorsement; nonresidents; violations.—

(1) In addition to fulfilling any other driver's licensing requirements of this chapter, a person who:

(a) Drives a double or triple trailer must successfully complete a test of his or her knowledge concerning the safe operation of such vehicles.

(b) Drives a passenger vehicle must successfully complete a test of his or her knowledge concerning the safe operation of such vehicles and a test of his or her driving skill in such a vehicle.

(c) *Drives a school bus must successfully complete a test of his or her knowledge concerning the safe operation of such vehicles and a test of his or her driving skill in such a vehicle. This subsection shall be implemented in accordance with 49 C.F.R. part 383.123.*

(d)(e) Drives a tank vehicle must successfully complete a test of his or her knowledge concerning the safe operation of such vehicles.

(e)(f) Drives a vehicle that transports hazardous materials and that is required to be placarded in accordance with Title 49 C.F.R. part 172, subpart F, must successfully complete a test of his or her knowledge concerning the safe operation of such vehicles. Knowledge tests for hazardous-materials endorsements may not be administered orally for individuals applying for an initial hazardous-materials endorsement after June 30, 1994.

(f)(e) Operates a tank vehicle transporting hazardous materials must successfully complete the tests required in paragraphs (d) (e) and (e) (f) so that the department may issue a single endorsement permitting him or her to operate such tank vehicle.

(g)(f) Drives a motorcycle must successfully complete a test of his or her knowledge concerning the safe operation of such vehicles and a test of his or her driving skills on such vehicle. A person who successfully completes such tests shall be issued an endorsement if he or she is licensed to drive another type of motor vehicle. A person who successfully completes such tests and who is not licensed to drive another type of motor vehicle shall be issued a Class E driver's license that is clearly restricted to motorcycle use only.

(2) Before driving or operating any vehicle listed in subsection (1), a person must obtain an endorsement on his or her driver's license. An endorsement under paragraph (a), paragraph (b), paragraph (c), paragraph (d), or paragraph (e), or *paragraph (f)* of subsection (1) shall be

issued only to persons who possess a valid Class A, valid Class B, or valid Class C driver's license. ~~A person who drives a motor vehicle or motor vehicle combination that requires an endorsement under this subsection and who drives a motor vehicle or motor vehicle combination having a gross vehicle weight rating, a declared weight, or an actual weight, whichever is greatest, of less than 26,000 pounds shall be issued a Class C driver's license that is clearly restricted to the operation of a motor vehicle or motor vehicle combination of less than 26,000 pounds.~~

Section 91. Paragraph (a) of subsection (1) of section 322.58, Florida Statutes, is amended to read:

322.58 Holders of chauffeur's licenses; effect of classified licensure.—

(1) In order to provide for the classified licensure of commercial motor vehicle drivers, the department shall require persons who have valid chauffeur's licenses to report on or after April 1, 1991, to the department for classified licensure, according to a schedule developed by the department.

(a) Any person who holds a valid chauffeur's license may continue to operate vehicles for which a ~~Class E D~~ driver's license is required until his or her chauffeur's license expires.

Section 92. Subsections (1), (2), (3), (7), (8), and (10) of section 322.61, Florida Statutes, are amended, and subsections (4) and (5) of that section are reenacted, to read:

322.61 Disqualification from operating a commercial motor vehicle.—

(1) A person who, *for offenses occurring* within a 3-year period, is convicted of two of the following serious traffic violations or any combination thereof, arising in separate incidents committed in a commercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 60 days. *A person who, for offenses occurring within a 3-year period, is convicted of two of the following serious traffic violations or any combination thereof, arising in separate incidents committed in a noncommercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 60 days if such convictions result in the suspension, revocation, or cancellation of the licenseholder's driving privilege:*

(a) A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, a weight violation, or a vehicle equipment violation, arising in connection with a crash resulting in death or personal injury to any person;

(b) Reckless driving, as defined in s. 316.192;

(c) Careless driving, as defined in s. 316.1925;

(d) Fleeing or attempting to elude a law enforcement officer, as defined in s. 316.1935;

(e) Unlawful speed of 15 miles per hour or more above the posted speed limit;

(f) Driving a commercial motor vehicle, owned by such person, which is not properly insured;

(g) Improper lane change, as defined in s. 316.085; or

(h) Following too closely, as defined in s. 316.0895;—

(i) *Driving a commercial vehicle without obtaining a commercial driver's license;*

(j) *Driving a commercial vehicle without a commercial driver's license in possession; or*

(k) *Driving a commercial vehicle without the proper class of commercial driver's license or without the proper endorsement.*

(2) Any person who, *for offenses occurring* within a 3-year period, is convicted of three serious traffic violations specified in subsection (1) or any combination thereof, arising in separate incidents committed in a

commercial motor vehicle shall, in addition to any other applicable penalties, including, but not limited to, the penalty provided in subsection (1), be disqualified from operating a commercial motor vehicle for a period of 120 days. *A person who, for offenses occurring within a 3-year period, is convicted of three serious traffic violations specified in subsection (1) or any combination thereof, arising in separate incidents committed in a noncommercial motor vehicle shall, in addition to any other applicable penalties, including, but not limited to, the penalty provided in subsection (1), be disqualified from operating a commercial motor vehicle for a period of 120 days if such convictions result in the suspension, revocation, or cancellation of the licenseholder's driving privilege.*

(3) Except as provided in subsection (4), any person who is convicted of one of the following offenses shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 1 year:

(a) Driving a commercial motor vehicle while he or she is under the influence of alcohol or a controlled substance;

(b) Driving a commercial motor vehicle while the alcohol concentration of his or her blood, breath, or urine is .04 percent or higher;

(c) Leaving the scene of a crash involving a commercial motor vehicle driven by such person;

(d) Using a commercial motor vehicle in the commission of a felony;

(e) Driving a commercial motor vehicle while in possession of a controlled substance; ~~or~~

(f) Refusing to submit to a test to determine his or her alcohol concentration while driving a commercial motor vehicle;

(g) *Driving a commercial vehicle while the licenseholder's commercial driver's license is suspended, revoked, or canceled or while the licenseholder is disqualified from driving a commercial vehicle; or*

(h) *Causing a fatality through the negligent operation of a commercial motor vehicle.*

(4) Any person who is transporting hazardous materials in a vehicle that is required to be placarded in accordance with Title 49 C.F.R. part 172, subpart F shall, upon conviction of an offense specified in subsection (3), be disqualified from operating a commercial motor vehicle for a period of 3 years. The penalty provided in this subsection shall be in addition to any other applicable penalty.

(5) Any person who is convicted of two violations specified in subsection (3), or any combination thereof, arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle. The penalty provided in this subsection shall be in addition to any other applicable penalty.

(7) A person whose privilege to operate a commercial motor vehicle is disqualified under this section may, if otherwise qualified, be issued a ~~Class D or~~ Class E driver's license, pursuant to s. 322.251.

(8) A driver who is convicted of or otherwise found to have committed a violation of an out-of-service order while driving a commercial motor vehicle is disqualified as follows:

(a) Not less than 90 days nor more than 1 year if the driver is convicted of or otherwise found to have committed a first violation of an out-of-service order.

(b) Not less than 1 year nor more than 5 years if, *for offenses occurring* during any 10-year period, the driver is convicted of or otherwise found to have committed two violations of out-of-service orders in separate incidents.

(c) Not less than 3 years nor more than 5 years if, *for offenses occurring* during any 10-year period, the driver is convicted of or otherwise found to have committed three or more violations of out-of-service orders in separate incidents.

(d) Not less than 180 days nor more than 2 years if the driver is convicted of or otherwise found to have committed a first violation of an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, 49

U.S.C. ss. 5101 et seq., or while operating motor vehicles designed to transport more than 15 passengers, including the driver. A driver is disqualified for a period of not less than 3 years nor more than 5 years if, *for offenses occurring* during any 10-year period, the driver is convicted of or otherwise found to have committed any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act 49 U.S.C. ss. 5101 et seq., or while operating motor vehicles designed to transport more than 15 passengers, including the driver.

(10)(a) A driver must be disqualified for not less than 60 days if the driver is convicted of or otherwise found to have committed a first violation of a railroad-highway grade crossing violation.

(b) A driver must be disqualified for not less than 120 days if, *for offenses occurring* during any 3-year period, the driver is convicted of or otherwise found to have committed a second railroad-highway grade crossing violation in separate incidents.

(c) A driver must be disqualified for not less than 1 year if, *for offenses occurring* during any 3-year period, the driver is convicted of or otherwise found to have committed a third or subsequent railroad-highway grade crossing violation in separate incidents.

Section 93. Subsection (1) and paragraph (a) of subsection (3) of section 322.63, Florida Statutes, are amended to read:

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

(1) A person who accepts the privilege extended by the laws of this state of operating a commercial motor vehicle within this state shall, by so operating such commercial motor vehicle, be deemed to have given his or her consent to submit to an approved chemical or physical test of his or her blood ~~or; breath, or urine~~ for the purpose of determining his or her alcohol concentration, *and to a urine test* ~~or~~ for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or of controlled substances.

(a) By applying for a commercial driver's license and by accepting and using a commercial driver's license, the person holding the commercial driver's license is deemed to have expressed his or her consent to the provisions of this section.

(b) Any person who drives a commercial motor vehicle within this state and who is not required to obtain a commercial driver's license in this state is, by his or her act of driving a commercial motor vehicle within this state, deemed to have expressed his or her consent to the provisions of this section.

(c) A notification of the consent provision of this section shall be printed ~~above the signature line~~ on each new or renewed *commercial driver's license issued after March 31, 1991.*

(3)(a) ~~The breath and blood physical and chemical tests authorized~~ in this section shall be administered substantially in accordance with rules adopted by the Department of Law Enforcement.

Section 94. Subsection (1) of section 322.64, Florida Statutes, is amended, and, for the purpose of incorporating the amendment to section 322.61, Florida Statutes, in a reference thereto, subsection (14) of that section is reenacted, to read:

322.64 Holder of commercial driver's license; driving with unlawful blood-alcohol level; refusal to submit to breath, urine, or blood test.—

(1)(a) A law enforcement officer or correctional officer shall, on behalf of the department, disqualify from operating any commercial motor vehicle a person who while operating or in actual physical control of a commercial motor vehicle is arrested for a violation of s. 316.193, relating to unlawful blood-alcohol level or breath-alcohol level, or a person who has refused to submit to a breath, urine, or blood test authorized by s. 322.63 arising out of the operation or actual physical control of a commercial motor vehicle. Upon disqualification of the person, the officer shall take the person's driver's license and issue the person a 10-day temporary permit *for the operation of noncommercial vehicles only* if the person is otherwise eligible for the driving privilege and shall issue the person a notice of disqualification. If the person has been given a blood,

breath, or urine test, the results of which are not available to the officer at the time of the arrest, the agency employing the officer shall transmit such results to the department within 5 days after receipt of the results. If the department then determines that the person was arrested for a violation of s. 316.193 and that the person had a blood-alcohol level or breath-alcohol level of 0.08 or higher, the department shall disqualify the person from operating a commercial motor vehicle pursuant to subsection (3).

(b) The disqualification under paragraph (a) shall be pursuant to, and the notice of disqualification shall inform the driver of, the following:

1.a. The driver refused to submit to a lawful breath, blood, or urine test and he or she is disqualified from operating a commercial motor vehicle for a period of 1 year, for a first refusal, or permanently, if he or she has previously been disqualified as a result of a refusal to submit to such a test; or

b. The driver violated s. 316.193 by driving with an unlawful blood-alcohol level and he or she is disqualified from operating a commercial motor vehicle for a period of 6 months for a first offense or for a period of 1 year if he or she has previously been disqualified, or his or her driving privilege has been previously suspended, for a violation of s. 316.193.

2. The disqualification period for operating commercial vehicles shall commence on the date of arrest or issuance of notice of disqualification, whichever is later.

3. The driver may request a formal or informal review of the disqualification by the department within 10 days after the date of arrest or issuance of notice of disqualification, whichever is later.

4. The temporary permit issued at the time of arrest or disqualification will expire at midnight of the 10th day following the date of disqualification.

5. The driver may submit to the department any materials relevant to the arrest.

(14) The decision of the department under this section shall not be considered in any trial for a violation of s. 316.193, s. 322.61, or s. 322.62, nor shall any written statement submitted by a person in his or her request for departmental review under this section be admissible into evidence against him or her in any such trial. The disposition of any related criminal proceedings shall not affect a disqualification imposed pursuant to this section.

Section 95. Paragraphs (c) and (f) of subsection (13) of section 713.78, Florida Statutes, are amended to read:

713.78 Liens for recovering, towing, or storing vehicles and vessels.—

(13)

(c)1. The registered owner of a vehicle, vessel, or mobile home may dispute a wrecker operator's lien, by notifying the department of the dispute in writing on forms provided by the department, if at least one of the following applies:

a. The registered owner presents a notarized bill of sale proving that the vehicle, vessel, or mobile home was sold in a private or casual sale before the vehicle, vessel, or mobile home was recovered, towed, or stored.

b. The registered owner presents proof that the Florida certificate of title of the vehicle, vessel, or mobile home was sold to a licensed dealer as defined in s. 319.001 before the vehicle, vessel, or mobile home was recovered, towed, or stored.

c. The records of the department were marked "sold" prior to the date of the tow.

If the registered owner's dispute of a wrecker operator's lien complies with one of these criteria, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. If the vehicle, vessel, or mobile home is owned jointly by more

than one person, each registered owner must dispute the wrecker operator's lien in order to be removed from the list. However, the department shall deny any dispute and maintain the registered owner's name on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8) if the wrecker operator has provided the department with a certified copy of the judgment of a court which orders the registered owner to pay the wrecker operator's lien claimed under this section. In such a case, the amount of the wrecker operator's lien allowed by paragraph (b) may be increased to include no more than \$500 of the reasonable costs and attorney's fees incurred in obtaining the judgment. The department's action under this subparagraph is ministerial in nature, shall not be considered final agency action, and is appealable only to the county court for the county in which the vehicle, vessel, or mobile home was ordered removed.

2. A person against whom a wrecker operator's lien has been imposed may alternatively obtain a discharge of the lien by filing a complaint, challenging the validity of the lien or the amount thereof, in the county court of the county in which the vehicle, vessel, or mobile home was ordered removed. Upon filing of the complaint, the person may have her or his name removed from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the court a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien to ensure the payment of such lien in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. Upon determining the respective rights of the parties, the court may award damages and costs in favor of the prevailing party.

3. If a person against whom a wrecker operator's lien has been imposed does not object to the lien, but cannot discharge the lien by payment because the wrecker operator has moved or gone out of business, the person may have her or his name removed from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the clerk of court in the county in which the vehicle, vessel, or mobile home was ordered removed, a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien. Upon the posting of the bond and the payment of the application fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. The department shall mail to the wrecker operator, at the address upon the lien form, notice that the wrecker operator must claim the security within 60 days, or the security will be released back to the person who posted it. At the conclusion of the 60 days, the department shall direct the clerk as to which party is entitled to payment of the security, less applicable clerk's fees.

4. A wrecker operator's lien expires 5 years after filing.

(f) This subsection applies only to the annual renewal in the registered owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under chapter 320, except for the transfer of registrations which is inclusive of the annual renewals. *This subsection does not apply to any vehicle registered in the name of the lessor.* This subsection does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(7)(b).

Section 96. Section 843.16, Florida Statutes, is amended to read:

843.16 Unlawful to install or transport radio equipment using assigned frequency of state or law enforcement officers; definitions; exceptions; penalties.—

(1) A ~~No~~ person, firm, or corporation may not ~~shall~~ install or transport in any motor vehicle or business establishment, except an emergency vehicle or crime watch vehicle as herein defined or a place established by municipal, county, state, or federal authority for governmental purposes, any frequency modulation radio receiving equipment so adjusted or tuned as to receive messages or signals on frequencies assigned by the Federal Communications Commission to police or law enforcement officers or fire rescue personnel of any city or county of the state or

to the state or any of its agencies. Provided, nothing herein shall be construed to affect any radio station licensed by the Federal Communications System or to affect any recognized newspaper or news publication engaged in covering the news on a full-time basis or any alarm system contractor certified pursuant to part II of chapter 489, operating a central monitoring system.

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

(a) "Emergency vehicle" shall specifically mean:

1. Any motor vehicle used by any law enforcement officer or employee of any city, any county, the state, the Federal Bureau of Investigation, or the Armed Forces of the United States while on official business;

2. Any fire department vehicle of any city or county of the state or any state fire department vehicle;

3. Any motor vehicle designated as an emergency vehicle by the Department of Highway Safety and Motor Vehicles when said vehicle is to be assigned the use of frequencies assigned to the state;

4. Any motor vehicle designated as an emergency vehicle by the sheriff or fire chief of any county in the state when said vehicle is to be assigned the use of frequencies assigned to the said county;

5. Any motor vehicle designated as an emergency vehicle by the chief of police or fire chief of any city in the state when said vehicle is to be assigned the use of frequencies assigned to the said city.

(b) "Crime watch vehicle" means any motor vehicle used by any person participating in a citizen crime watch or neighborhood watch program when such program and use are approved in writing by the appropriate sheriff or chief of police where the vehicle will be used and the vehicle is assigned the use of frequencies assigned to the county or city. Such approval shall be renewed annually.

(3) This section shall not apply to any holder of a valid amateur radio operator or station license issued by the Federal Communications Commission or to any recognized newspaper or news publication engaged in covering the news on a full-time basis or any alarm system contractor certified pursuant to part II of chapter 489, operating a central monitoring system.

(4) Any person, firm, or corporation violating any of the provisions of this section ~~commits shall be deemed guilty of a misdemeanor of the first second degree, punishable as provided in s. 775.082 or s. 775.083.~~

Section 97. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2005.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to highway safety; amending s. 61.13016, F.S.; directing the department to issue a driver's license restricted for business purposes only under certain circumstances relating to failure to pay child support; amending s. 316.006, F.S.; providing for interlocal agreements between municipalities and counties transferring traffic regulatory authority; amending s. 316.083, F.S.; requiring an appropriate signal when overtaking and passing a vehicle; amending s. 316.155, F.S.; specifying that signals are required when moving right or left or overtaking or passing a vehicle; amending s. 316.2095, F.S.; revising physical requirements for operating motorcycles under certain circumstances; amending s. 316.212, F.S.; granting local jurisdictions the authority to enact ordinances governing the use of golf carts which are more restrictive than state law; amending s. 316.2126, F.S.; requiring that the use of golf carts upon any state, county, or municipal road within a local jurisdiction be in compliance with local ordinances governing the use of golf carts; amending s. 316.302, F.S.; providing a penalty for operating a commercial motor vehicle bearing a false or other illegal identification number; amending s. 316.3045, F.S.; revising criteria related to the operation of radios or other sound-making devices in motor vehicles; amending s. 318.1215, F.S.; clarifying that funds from the Dori Slosberg Driver Education Safety Act be used for driver education programs in schools; requiring that funds be used for enhancement of a driver education program; providing a requirement for behind-the-wheel training; amending s. 318.14, F.S.; providing penalties for certain traffic infractions requiring a mandatory hearing; providing for distribution of monies collected; amending s. 318.21, F.S.; providing for distribution of

specified civil penalties by county courts; amending s. 319.30, F.S.; revising provisions relating to the applicability of certificate of destruction requirements for certain damaged vehicles; amending s. 320.02, F.S.; authorizing the withholding of motor vehicle registrations or re-registrations in certain situations; requiring motor vehicle dealers to maintain certain information; allowing owners and co-owners to dispute a dealer's claims of money owed; amending s. 320.27, F.S.; providing for motor vehicle dealer license discipline for the failure to maintain evidence of notification to the owner or co-owner of a vehicle regarding registration and titling fees owed; revising authorized uses of revenues from the United We Stand specialty license plate; amending s. 320.08058, F.S.; redesignating the Florida Special Olympics license plate as the Special Olympics Florida license plate and revising design requirements for such specialty license plate; revising requirements for agencies that receive funds from the Choose Life license plate; revising authorized uses of revenues from the Animal Friend specialty license plate; amending s. 320.089, F.S.; allowing retired members of the U.S. Armed Forces Reserve to be issued U.S. Reserve license plates; amending s. 320.77, F.S.; providing that mobile home dealers may provide a cash bond or letter of credit in lieu of a required surety bond; amending s. 322.08, F.S.; revising the use of funds collected from a voluntary contribution associated with driver's license renewals to be used for the purposes designated by the Hearing Research Institute, Inc.; amending s. 322.2615, F.S.; providing that the disposition of a related criminal proceeding may not affect a suspension of a driver's license for refusal to submit to blood, breath, or urine testing; directing the Department of Highway Safety and Motor Vehicles to invalidate a suspension for driving with an unlawful blood-alcohol level or breath-alcohol level if the suspended person is found not guilty at trial of the underlying violation of law; creating the Manufactured Housing Regulatory Study Commission; providing for membership; providing duties; requiring the commission to file a report with the Governor and the Legislature; amending s. 322.27, F.S.; correcting a cross-reference relating to points assigned for littering violations; amending s. 322.61, F.S.; specifying additional violations that disqualify a person from operating a commercial motor vehicle; providing penalties; providing an exception to the requirement that a commercial driver's license be in possession of the commercial driver; removing requirements for a Class D driver's license; amending s. 321.24, F.S.; providing that certain medical professionals who volunteer for Florida Highway Patrol service are considered employees of the state for sovereign immunity purposes; creating s. 549.102, F.S.; authorizing temporary overnight parking during a motorsports event at a motorsports entertainment complex; exempting such parking from regulations relating to recreational vehicle parks; providing for application of health agency requirements; amending s. 261.03, F.S.; redefining the term "off-highway vehicle" to include a two-rider ATV; adding a definition; amending s. 316.003, F.S.; defining the term "traffic signal preemption system"; amending s. 316.0775, F.S.; providing that the unauthorized use of a traffic signal preemption device is a moving violation; amending s. 316.122, F.S.; providing for the right-of-way for certain passing vehicles; creating s. 316.1576, F.S.; providing clearance specifications for a railroad-highway grade crossing; providing a penalty; creating s. 316.1577, F.S.; providing that an employer is responsible under certain circumstances for violations pertaining to railroad-highway grade crossings; providing a penalty; amending s. 316.183, F.S.; increasing the minimum speed limit on interstate highways under certain circumstances; amending s. 316.1932, F.S.; revising the requirements for printing the notice of consent for sobriety testing on a driver's license; amending s. 316.1936, F.S., relating to possession of open containers of alcohol; removing an exemption provided for passengers of a vehicle operated by a driver holding a Class D driver's license; amending s. 316.194, F.S.; authorizing traffic accident investigation officers to remove vehicles under certain circumstances; amending s. 316.1967, F.S.; providing that an owner of a leased vehicle is not responsible for a parking ticket violation in certain circumstances; amending s. 316.2074, F.S.; redefining the term "all-terrain vehicle" to include a two-rider ATV; amending s. 316.302, F.S.; updating a reference to the Code of Federal Regulations relating to commercial motor vehicles; amending s. 316.605, F.S.; clarifying that portion of a license plate which must be clear and plainly visible; amending s. 316.613, F.S.; eliminating authorization for the Department of Highway Safety and Motor Vehicles to expend certain funds for promotional purposes; creating s. 316.6131, F.S.; authorizing the department to expend certain funds for public information and education campaigns; amending s. 316.650, F.S.; providing exceptions to a prohibition against using citations as evidence in a trial; amending s. 317.0003, F.S.; defining the term "off-highway vehicle" to include a two-rider ATV; providing a definition; amending ss. 317.0004, 317.0005, and

317.0006, F.S.; conforming references; amending s. 317.0007, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to issue a validation sticker as an additional proof of title for an off-highway vehicle; providing for the replacement of lost or destroyed off-highway vehicle validation stickers; providing for disposition of fees; repealing s. 317.0008(2), F.S., relating to the expedited issuance of duplicate certificates of title for off-highway vehicles; amending ss. 317.0010, 317.0012, and 317.0013, F.S.; conforming references; creating s. 317.0014, F.S.; establishing procedures for the issuance of a certificate of title for an off-highway vehicle; providing duties of the Department of Highway Safety and Motor Vehicles; providing for a notice of lien and lien satisfaction; creating s. 317.0015, F.S.; providing for the applicability of certain provisions of law to the titling of off-highway vehicles; creating s. 317.0016, F.S.; providing for the expedited issuance of titles for off-highway vehicles; creating s. 317.0017, F.S.; prohibiting specified actions relating to the issuance of titles for off-highway vehicles; providing a penalty; creating s. 317.0018, F.S.; prohibiting the transfer of an off-highway vehicle without delivery of a certificate of title; prescribing other violations; providing a penalty; amending s. 318.14, F.S.; authorizing the department to modify certain actions to suspend or revoke a driver's license following notice of final disposition; providing citation procedures and proceedings for persons who do not hold a commercial driver's license; amending s. 319.23, F.S.; requiring a licensed motor vehicle dealer to notify the Department of Highway Safety and Motor Vehicles of a motor vehicle or mobile home taken as a trade-in; requiring the department to update its title record; amending s. 319.27, F.S.; correcting an obsolete cross-reference; amending s. 320.06, F.S.; providing for a credit or refund when a registrant is required to replace a license plate under certain circumstances; amending s. 320.0601, F.S.; requiring that a registration or renewal of a long-term leased motor vehicle be in the name of the lessee; amending s. 320.0605, F.S.; exempting a vehicle registered as a fleet vehicle from the requirement that the certificate of registration be carried in the vehicle at all times; amending s. 320.0843, F.S.; requiring that an applicant's eligibility for a disabled parking plate be noted on the certificate; amending s. 320.131, F.S.; authorizing the department to provide for an electronic system for motor vehicle dealers to use in issuing temporary license plates; providing a penalty; amending s. 320.18, F.S.; authorizing the department to cancel the vehicle or vessel registration, driver's license, or identification card of a person who pays certain fees or penalties with a dishonored check; amending s. 320.27, F.S.; requiring dealer principals to provide certification of completing continuing education under certain circumstances; requiring motor vehicle dealers to maintain records for a specified period; providing certain penalties; amending s. 322.01, F.S.; redefining the terms "commercial motor vehicle" and "out-of-service order"; providing the definition of conviction applicable to offenses committed in a commercial motor vehicle; amending s. 322.05, F.S.; removing requirements for a Class D driver's license; amending s. 322.051, F.S.; revising provisions relating to the application for an identification card; providing that the requirement for a fullface photograph or digital image on an identification card may not be waived under ch. 761, F.S.; amending s. 322.07, F.S.; removing requirements for a Class D driver's license; amending s. 322.08, F.S.; providing that a United States passport is an acceptable proof of identity for purposes of obtaining a driver's license; providing that a naturalization certificate issued by the United States Department of Homeland Security is an acceptable proof of identity for such purpose; providing that specified documents issued by the United States Department of Homeland Security are acceptable as proof of nonimmigrant classification; amending s. 322.09, F.S.; requiring the signature of a secondary guardian on a driver's license application for a minor under certain circumstances; amending s. 322.11, F.S.; providing for notice to a minor before canceling the minor's license due to the death of the person who cosigned the initial application; amending s. 322.12, F.S.; removing requirements for a Class D driver's license; amending s. 322.135, F.S.; deleting a requirement that a portion of certain fees collected by a tax collector be deposited in the Highway Safety Operating Trust Fund; revising requirements for the tax collector in directing a licensee for examination or reexamination; requiring county officers to pay certain funds to the State Treasury by electronic funds transfer within a specified period; amending s. 322.142, F.S.; providing that the requirement for a fullface photograph or digital image on a driver's license may not be waived under ch. 761, F.S.; amending s. 322.161, F.S.; removing requirements for a Class D driver's license; amending s. 322.17, F.S., relating to duplicate and replacement certificates; conforming a cross-reference; amending s. 322.18, F.S.; revising the expiration period for driver's licenses issued to specified persons; conforming cross-references; amending s. 322.19, F.S., relating to change of address or name; conforming cross-references; amending s. 322.21, F.S.; removing

requirements for a Class D driver's license; requiring the department to set a fee for a hazardous-materials endorsement; providing that the fee may not exceed \$100; amending s. 322.212, F.S.; providing an additional penalty for giving false information when applying for a commercial driver's license; amending s. 322.22, F.S.; authorizing the department to cancel any identification card, vehicle or vessel registration, or fuel-use decal of a licensee who pays certain fees or penalties with a dishonored check; amending s. 322.251, F.S.; removing requirements for a Class D driver's license; amending s. 322.2615, F.S.; revising provisions related to administrative suspension of driver's licenses; amending s. 322.27, F.S.; providing 4 points to be assessed against a person's driver's license for a violation of s. 316.0775(2), F.S.; amending s. 322.30, F.S.; removing the requirements for a Class D driver's license; amending s. 322.53, F.S.; removing requirements for a Class D driver's license; removing a requirement that certain operators of a commercial motor vehicle obtain a specified license; amending s. 322.54, F.S.; revising the classification requirements for certain driver's licenses; deleting requirements for a Class D driver's license; amending s. 322.57, F.S.; providing testing requirements for school bus drivers; amending s. 322.58, F.S.; deleting requirements for a Class D driver's license and changing those requirements to a Class E driver's license; amending and reenacting s. 322.61, F.S.; specifying additional violations that disqualify a person from operating a commercial motor vehicle; providing penalties; removing requirements for a Class D driver's license; amending s. 322.63, F.S.; clarifying provisions governing alcohol and drug testing for commercial motor vehicle operators; amending s. 322.64, F.S., and reenacting s. 322.64(14), F.S., relating to citation procedures and proceedings, to incorporate the amendment to s. 322.61, F.S., in a reference thereto; providing for a temporary permit issued following certain DUI offenses to apply only to the operation of noncommercial vehicles; amending s. 713.78, F.S.; revising provisions relating to the placement of a wrecker operator's lien against a motor vehicle; amending s. 843.16, F.S.; prohibiting the transportation of radio equipment that receives signals on frequencies used by this state's law enforcement officers or fire rescue personnel; redefining the term "emergency vehicle" to include any motor vehicle designated as such by the fire chief of a county or municipality; providing an enhanced penalty; providing effective dates.

MOTION

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

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

Amendment 1A (482548)(with title amendment)—On page 122, between lines 13 and 14, insert:

Section 97. *Short title.*—*This section may be cited as the "Dori Slossberg Act of 2005."*

Section 98. Subsections (4) and (8) of section 316.614, Florida Statutes, are amended, present subsection (9) of that section is redesignated as subsection (10), and a new subsection (9) is added to that section, to read:

316.614 Safety belt usage.—

(4) It is unlawful for any person:

(a) To operate a motor vehicle in this state unless each passenger *and the operator* of the vehicle under the age of 18 years is restrained by a safety belt or by a child restraint device pursuant to s. 316.613, if applicable; or

(b) To operate a motor vehicle in this state unless the person is restrained by a safety belt.

(8) Any person who violates the provisions of this section commits a nonmoving violation, punishable as provided in chapter 318. However, except for violations of s. 316.613 *and paragraph (4)(a)*, enforcement of this section by state or local law enforcement agencies must be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another section of this chapter, chapter 320, or chapter 322.

(9) *By January 1, 2006, each law enforcement agency in this state shall adopt departmental policies to prohibit the practice of racial profil-*

ing. When a law enforcement officer issues a citation for a violation of this section, the law enforcement officer must record the race and ethnicity of the violator. All law enforcement agencies must maintain such information and forward the information to the department in a form and manner determined by the department. The department shall collect this information by jurisdiction and annually report the data to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must show separate statewide totals for the state's county sheriffs and municipal law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 134, line 2, after the semicolon (;) insert: providing a short title; amending s. 316.614, F.S.; revising provisions relating to safety belt usage; requiring the Department of Highway Safety and Motor Vehicles to develop a policy to prohibit the practice of racial profiling;

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **HB 1697** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Lawson—

CS for SB 2510—A bill to be entitled An act relating to natural resources; amending s. 380.23, F.S.; clarifying the list of federally licensed and permitted activities reviewed for consistency under the Florida Coastal Management Program; revising provisions relating to the licensing and relicensing of hydroelectric power plants; requiring the inclusion of National Environmental Policy Act documents in consistency reviews for certain activities; amending s. 380.06, F.S.; providing that heavy mineral mining at greater than 500 acres per year or consuming more than 3 million gallons of water per day requires review; amending s. 376.121, F.S.; providing an alternative to the compensation schedule for calculating natural resources damages; revising procedures relating to damage assessment; removing a restriction on the amount of compensation; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 2510** to **HB 1855**.

Pending further consideration of **CS for SB 2510** as amended, on motion by Senator Lawson, by two-thirds vote **HB 1855** was withdrawn from the Committees on Environmental Preservation; and Communications and Public Utilities.

On motion by Senator Lawson—

HB 1855—A bill to be entitled An act relating to natural resources; amending s. 376.121, F.S.; providing an alternative to the compensation schedule for calculating natural resources damages; revising procedures relating to damage assessment; removing a restriction on amount of compensation; amending s. 380.06, F.S.; revising factors for determining a substantial deviation in developments of regional impact; amending s. 380.23, F.S.; revising the federally licensed or permitted activities subject to consistency review under the coastal management program; requiring certain environmental impact reports to be data and information for the state's consistency reviews; providing an effective date.

—a companion measure, was substituted for **CS for SB 2510** as amended and read the second time by title.

Senators Dockery and Lawson offered the following amendment which was moved by Senator Dockery and adopted:

Amendment 1 (390668)(with title amendment)—On page 1, line 20, insert:

Section 1. Part IV of chapter 161, Florida Statutes, consisting of sections 161.70, 161.71, 161.72, 161.73, 161.74, 161.75, and 161.76, is created to read:

PART IV

OCEANS AND COASTAL RESOURCES MANAGEMENT ACT

161.70 Short title.—This part may be cited as the “Oceans and Coastal Resources Act.”

161.71 Definitions.—As used in this part, the term:

(1) “Commission” means the Fish and Wildlife Conservation Commission created in s. 9, Art. IV of the State Constitution.

(2) “Council” means the Florida Oceans and Coastal Council created by this act.

(3) “Department” means the Department of Environmental Protection.

(4) “Executive director” means the Executive Director of the Fish and Wildlife Conservation Commission.

(5) “Oceans” means those waters from the mean high-water line outward to the state's jurisdictional boundary and those United States waters in which this state has an interest.

(6) “Secretary” means the Secretary of the Department of Environmental Protection.

161.72 Findings and intent.—

(1) The Legislature finds that:

(a) The oceans and coastal resources of the United States are of national importance;

(b) The U.S. Commission on Ocean Policy has made 212 recommendations and the President has responded with an Ocean Action Plan to better protect and preserve our oceans;

(c) Florida's ocean and coastal resources contribute significantly to the state economy by supporting multiple beneficial uses and a wide range of economic value that requires balancing of competing considerations;

(d) Florida's oceans and coastal resources comprise habitats that support endangered and threatened species and extraordinary marine biodiversity;

(e) The coral reefs of southeast Florida and the barrier reef of the Florida Keys, the only barrier reef in the United States, are a national treasure and must continue to be protected;

(f) It is Florida's responsibility to be a national leader on oceans and coastal protection;

(g) It is in the state's best interest to ensure the productivity and health of our oceans and coastal resources;

(h) Florida's marine biodiversity at the species, natural community, seascape, and regional levels must be protected by restoring, rehabilitating, and maintaining the quality and natural function of oceans and coastal resources through an ecosystem-based management approach, as recommended by the U.S. Commission on Ocean Policy;

(i) The quality of our beaches and fisheries resources must be protected to ensure the public health;

(j) Protection must be provided to highly migratory marine species, such as sea turtles and sea birds;

(k) Opportunities must be increased to provide natural resource-based recreation and encourage responsibility and stewardship through educational opportunities;

(l) Oceans and coastal research must be prioritized to ensure coordination among researchers and managers and long-term programs to observe, monitor, and assess oceans, and coastal resources must be developed and implemented;

(m) Development of coastal areas should be both economically and environmentally sustainable, and inappropriate growth in ecologically fragile or hazard-prone areas should be discouraged; and

(n) Conservation and restoration of coastal habitat could be enhanced through the development of regional and local goals, the institu-

tion of a program dedicated to coastal and estuarine conservation, better coordination of the state's activities relating to habitat, and improved research, monitoring, and assessment.

(2) It is the intent of the Legislature to create the Oceans and Coastal Resources Council to assist the state in identifying new management strategies to achieve the goal of maximizing the protection and conservation of ocean and coastal resources while recognizing their economic benefits.

(3) It is further the intent of the Legislature that the council shall encourage and support the development of creative public-private partnerships, pursue opportunities to leverage funds, and work in coordination with federal agencies and programs to maximize opportunities for the state's receipt of federal funds.

161.73 *Composition.*—The Florida Oceans and Coastal Council is created within the Department of Environmental Protection and shall consist of 18 members. The secretary, the executive director, and the commissioner of the Department of Agriculture and Consumer Services, or their designees, shall serve as ex-officio members of the council. The council shall be jointly chaired by the secretary and the executive director. The 15 voting members of the council shall be appointed, within 60 days after this act becomes law, in the following manner:

(1) Five members shall be appointed by the Secretary of the Department of Environmental Protection which will be comprised of one scientist specializing in each of the following fields: wetlands and watersheds; nearshore waters or estuaries; offshore waters or open oceans; hydrology and aquatic systems; and coastal geology or coastal erosion and shorelines.

(2) Five members shall be appointed by the Executive Director of the Fish and Wildlife Conservation Commission which will be comprised of one scientist specializing in each of the following fields: resource management; wildlife habitat management; fishery habitat management; coastal and pelagic birdlife; and marine biotechnology.

(3) Five members shall be appointed by the Commissioner of the Department of Agriculture and Consumer Services. These appointments shall be selected from a list of at least eight individuals submitted to the commissioner by the Florida Ocean Alliance. The individuals selected by the Florida Ocean Alliance shall be chosen from the following disciplines or groups: sportsfishing; ports; cruise industry; energy industry; ecotourism; private marine research institutes; universities; aquaculture; maritime law; commercial fisheries; socioeconomic; marine science education; and environmental groups.

(4) Appointments made by the secretary and executive director shall be to terms of 4 years each. Appointments made by the Commissioner of the Department of Agriculture and Consumer Services shall be to terms of 2 years. Members shall serve until their successors are appointed. Vacancies shall be filled in the manner of the original appointment for the remainder of the term that is vacated.

(5) Members shall serve without compensation, but are entitled to reimbursement of travel and per diem expenses pursuant to s. 112.061, relating to completing their duties and responsibilities.

161.74 *Responsibilities.*—

(1) **RESEARCH REVIEW.**—Prior to the development of the research plan the council shall review and compile the existing, ongoing, and planned ocean and coastal research and monitoring activities relevant to this state. Included in this review shall be the "Florida's Ocean Strategies Final Report to the Governor" by the Florida Governor's Oceans Committee dated June 1999. To aid the council in fulfilling this requirement, all public agencies must submit the information requested by the council, and private research institutes are encouraged to submit relevant information to the maximum extent practicable. Upon receiving the information required by this subsection, the council shall develop a library to serve as a repository of information for use by those involved in ocean and coastal research. The council shall develop an index of this information to assist researchers in accessing the information.

(2) **RESEARCH PLAN.**—The council must complete a Florida Oceans and Coastal Scientific Research Plan which shall be used by the Legislature in making funding decisions. The plan must recommend priorities for scientific research projects. The plan must be submitted to

the President of the Senate and the Speaker of the House of Representatives by January 15, 2006. Thereafter, annual updates to the plan must be submitted to the President of the Senate and the Speaker of the House of Representatives by February 1 of each year. The research projects contained in the plan must meet at least one of the following objectives:

(a) Exploring opportunities to improve coastal ecosystem functioning and health through watershed approaches to managing freshwater and improving water quality.

(b) Evaluating current habitat conservation, restoring and maintaining programs, and recommending improvements in the areas of research, monitoring and assessment.

(c) Promoting marine biomedical or biotechnology research and product discovery and development to enhance Florida's opportunity to maximize the beneficial uses of marine-derived bioproducts and reduce negative health impacts of marine organisms.

(d) Creating consensus and strategies on how Florida can contribute to sustainable management of ocean wildlife and habitat.

(e) Documenting through examination of existing and new research the impact of marine and coastal debris and current best practices to reduce debris.

(f) Providing methods to achieve sustainable fisheries through better science, governance, stock enhancements and consideration of habitat and secondary impacts such as bycatch.

(g) Documenting gaps in current protection strategies for marine mammals.

(h) Promoting research and new methods to preserve and restore coral reefs and other coral communities.

(i) Achieving sustainable marine aquaculture.

(j) Reviewing existing and ongoing studies on preventing and responding to the spread of invasive and nonnative marine and estuarine species.

(k) Exploring ocean-based renewable energy technologies and climate change-related impacts to Florida's coastal area.

(l) Enhancing science education opportunities such as virtual marine technology centers.

(m) Sustaining abundant birdlife and encouraging the recreational and economic benefits associated with ocean and coastal wildlife observation and photography.

(n) Developing a statewide analysis of the economic value associated with ocean and coastal resources, developing economic baseline data, methodologies, and consistent measures of oceans and coastal resource economic activity and value, and developing reports that educate Floridians, the National Ocean Policy Commission, local, state, and federal agencies and others on the importance of ocean and coastal resources.

(3) **RESOURCE ASSESSMENT.**—By December 1, 2006, the council shall prepare a comprehensive oceans and coastal resource assessment that shall serve as a baseline of information to be used in assisting in its research plan. The resource assessment must include:

(a) Patterns of use of oceans and coastal resources;

(b) Natural resource features, including, but not limited to, habitat, bathymetry, surficial geology, circulation, and tidal currents;

(c) The location of current and proposed oceans and coastal research and monitoring infrastructure;

(d) Industrial, commercial, coastal observing system, ships, subs, and recreational transit patterns; and

(e) Socioeconomic trends of the state's oceans and coastal resources and oceans and coastal economy.

161.75 *Rulemaking authority.*—The department and the commission may adopt rules, pursuant to ss. 120.536(1) and 120.54, to administer this part.

161.76 *Preservation of authority.*—This part does not restrict or limit the authority otherwise granted to the commission, or other state agencies by law.

Section 2. *In order to protect, conserve, and restore declining recreational fisheries, stimulate economic growth, and help meet the state's seafood needs, the council created in section 161.73, Florida Statutes, shall, as a pilot project to demonstrate the feasibility of collaborative research efforts, direct research by two or more marine science research entities to evaluate the potential for inland, recirculating, and aquaculture technology to produce marine species and to implement new marine stock enhancement initiatives. This project shall be designed to expand new aquaculture and marine stock enhancement technology to include additional species and evaluate the potential to successfully enhance those marine stocks. The council shall present to the Governor, the President of the Senate, and the Speaker of the House of Representatives the results of this research project by February 1, 2007.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 2 through 17, delete those lines and insert: An act relating to natural resources; creating part IV of ch. 161, F.S., consisting of ss. 161.70, 161.71, 161.72, 161.73, 161.74, 161.75, and 161.76, F.S.; providing definitions; providing findings and intent; requiring that the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, and the Department of Agriculture and Consumer Services to establish the Florida Oceans and Coastal Council; providing for membership of the council; providing for the Secretary of Environmental Protection and the executive director of the Fish and Wildlife Conservation Commission to jointly chair the council; providing responsibilities of the council; requiring that the council undertake a research review; providing for content and access to the review; requiring the council to prepare a research plan that recommends research priorities; providing for annual updates of the plan; providing for distribution of the plan to the Legislature; prepare an oceans and coastal resource assessment; providing for contents of the assessment; requiring the council to establish objectives for research projects; providing for a pilot project; authorizing rulemaking by the Department of Environmental Protection and the Fish and Wildlife Conservation Commission; preserving authority otherwise granted to the commission and state agencies; amending s. 376.121, F.S.; providing an alternative to the compensation schedule for calculating natural resources damages; revising procedures relating to damage assessment; removing a restriction on amount of compensation; amending s. 380.06, F.S.; revising factors for determining a substantial deviation in developments of regional impact; amending s. 380.23, F.S.; revising the federally licensed or permitted activities subject to consistency review under the coastal management program; requiring certain environmental impact reports to be data and information for the state's consistency reviews; providing an effective date.

WHEREAS, Florida's coastline is the second longest coastline of the fifty states, and

WHEREAS, the oceans and coastal resources of the state are held in trust for the people of the state and should be protected and managed for the benefit of current and future generations, and

WHEREAS, it is imperative for the state, regional, and local governments, academic and environmental communities, and agricultural and fishery interests to commit to working together to manage, rehabilitate, and protect Florida's oceans and coastal resources, NOW, THEREFORE,

MOTION

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

Senator Alexander moved the following amendment which was adopted:

Amendment 2 (324880)(with title amendment)—On page 19, between lines 3 and 4, insert:

Section 4. Paragraph (d) of subsection (2) and subsections (6), (7), (8), and (11) of section 403.067, Florida Statutes, are amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(2) LIST OF SURFACE WATERS OR SEGMENTS.—In accordance with s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq., the department must submit periodically to the United States Environmental Protection Agency a list of surface waters or segments for which total maximum daily load assessments will be conducted. The assessments shall evaluate the water quality conditions of the listed waters and, if such waters are determined not to meet water quality standards, total maximum daily loads shall be established, subject to the provisions of subsection (4). The department shall establish a priority ranking and schedule for analyzing such waters.

(d) If the department proposes to implement total maximum daily load calculations or allocations established prior to the effective date of this act, the department shall adopt those calculations and allocations by rule by the secretary pursuant to ss. 120.536(1) and 120.54 and paragraph (6)(c) ~~(6)(d)~~.

(6) CALCULATION AND ALLOCATION.—

(a) Calculation of total maximum daily load.

1. Prior to developing a total maximum daily load calculation for each water body or water body segment on the list specified in subsection (4), the department shall coordinate with applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources to determine the information required, accepted methods of data collection and analysis, and quality control/quality assurance requirements. The analysis may include mathematical water quality modeling using approved procedures and methods.

2. The department shall develop total maximum daily load calculations for each water body or water body segment on the list described in subsection (4) according to the priority ranking and schedule unless the impairment of such waters is due solely to activities other than point and nonpoint sources of pollution. For waters determined to be impaired due solely to factors other than point and nonpoint sources of pollution, no total maximum daily load will be required. A total maximum daily load may be required for those waters that are impaired predominantly due to activities other than point and nonpoint sources. The total maximum daily load calculation shall establish the amount of a pollutant that a water body or water body segment may receive from all sources without exceeding water quality standards, and shall account for seasonal variations and include a margin of safety that takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. The total maximum daily load may be based on a pollutant load reduction goal developed by a water management district, provided that such pollutant load reduction goal is promulgated by the department in accordance with the procedural and substantive requirements of this subsection.

(b) Allocation of total maximum daily loads. The total maximum daily loads shall include establishment of reasonable and equitable allocations of the total maximum daily load *between or among* point and nonpoint sources that will alone, or in conjunction with other management and restoration activities, provide for the attainment of the *pollutant reductions established pursuant to paragraph (a) to achieve water quality standards for the pollutant causing impairment* ~~water quality standards and the restoration of impaired waters~~. The allocations may establish the maximum amount of the water pollutant ~~from a given source or category of sources~~ that may be discharged or released into the water body or water body segment in combination with other discharges or releases. Allocations may also be made to individual basins and sources or as a whole to all basins and sources or categories of sources of inflow to the water body or water body segments. *An initial allocation of allowable pollutant loads among point and nonpoint sources may be developed as part of the total maximum daily load. However, in such cases, the detailed allocation to specific point sources and specific categories of nonpoint sources shall be established in the basin management action plan pursuant to subsection (7). The initial and detailed allocations shall be designed to attain the pollutant reductions established pursuant to paragraph (a)* ~~water quality standards~~ and shall be based on consideration of the following:

1. Existing treatment levels and management practices;
2. *Best management practices established and implemented pursuant to paragraph (7)(c);*
3. *Enforceable treatment levels established pursuant to state or local law or permit;*
- 4.2. Differing impacts pollutant sources *and forms of pollutant* may have on water quality;
- 5.3. The availability of treatment technologies, management practices, or other pollutant reduction measures;
- 6.4. Environmental, economic, and technological feasibility of achieving the allocation;
- 7.5. The cost benefit associated with achieving the allocation;
- 8.6. Reasonable timeframes for implementation;
- 9.7. Potential applicability of any moderating provisions such as variances, exemptions, and mixing zones; and
- 10.8. The extent to which nonattainment of water quality standards is caused by pollution sources outside of Florida, discharges that have ceased, or alterations to water bodies prior to the date of this act.

~~(c) Not later than February 1, 2001, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing recommendations, including draft legislation, for any modifications to the process for allocating total maximum daily loads, including the relationship between allocations and the watershed or basin management planning process. Such recommendations shall be developed by the department in cooperation with a technical advisory committee which includes representatives of affected parties, environmental organizations, water management districts, and other appropriate local, state, and federal government agencies. The technical advisory committee shall also include such members as may be designated by the President of the Senate and the Speaker of the House of Representatives.~~

~~(c)(4)~~ *Adoption of rules.* The total maximum daily load calculations and allocations established under this subsection for each water body or water body segment shall be adopted by rule by the secretary pursuant to ss. 120.536(1), 120.54, and 403.805. *Where additional data collection and analysis are needed to increase the scientific precision and accuracy of the total maximum daily load, the department is authorized to adopt phased total maximum daily loads that are subject to change as additional data becomes available. Where phased total maximum daily loads are proposed, the department shall, in the detailed statement of facts and circumstances justifying the rule, explain why the data are inadequate so as to justify a phased total maximum daily load.* The rules adopted pursuant to this paragraph shall not be subject to approval by the Environmental Regulation Commission. As part of the rule development process, the department shall hold at least one public workshop in the vicinity of the water body or water body segment for which the total maximum daily load is being developed. Notice of the public workshop shall be published not less than 5 days nor more than 15 days before the public workshop in a newspaper of general circulation in the county or counties containing the water bodies or water body segments for which the total maximum daily load calculation and allocation are being developed.

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

- (a) Basin management action plans.—*
1. *In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the water body. Such a plan shall integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan shall establish a schedule for implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify*

feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, where appropriate, to achieve the needed pollutant load reductions.

2. *A basin management action plan shall equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan shall be those practices developed pursuant to paragraph (c). Where appropriate, the plan may provide pollutant-load-reduction credits to dischargers that have implemented management strategies to reduce pollutant loads, including best management practices, prior to the development of the basin management action plan. The plan shall also identify the mechanisms by which potential future increases in pollutant loading will be addressed.*

3. *The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting shall be published in a newspaper of general circulation in each county in which the watershed or basin lies not less than 5 days nor more than 15 days before the public meeting. A basin management action plan shall not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.*

4. *The department shall adopt all or any part of a basin management action plan by secretarial order pursuant to chapter 120 to implement the provisions of this section.*

5. *The basin management action plan shall include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources shall follow the procedures set forth in subparagraph (c)4. Revised basin management action plans shall be adopted pursuant to subparagraph 4.*

~~(b)(4)~~ *Total maximum daily load implementation.—*

1. The department shall be the lead agency in coordinating the implementation of the total maximum daily loads through existing water quality protection programs. Application of a total maximum daily load by a water management district shall be consistent with this section and shall not require the issuance of an order or a separate action pursuant to s. 120.536(1) or s. 120.54 for adoption of the calculation and allocation previously established by the department. Such programs may include, but are not limited to:

- a.1. Permitting and other existing regulatory programs, including water-quality-based effluent limitations;
- b.2. Nonregulatory and incentive-based programs, including best management practices, cost sharing, waste minimization, pollution prevention, agreements established pursuant to s. 403.061(21), and public education;
- c.3. Other water quality management and restoration activities, for example surface water improvement and management plans approved by water management districts or watershed or basin management action plans developed pursuant to this subsection;
- d.4. Pollutant trading or other equitable economically based agreements;

- e.5. Public works including capital facilities; or
- f.6. Land acquisition.

2. For a basin management action plan adopted pursuant to subparagraph (a)4., any management strategies and pollutant reduction requirements associated with a pollutant of concern for which a total maximum daily load has been developed, including effluent limits set forth for a discharger subject to NPDES permitting, if any, shall be included in a timely manner in subsequent NPDES permits or permit modifications for that discharger. The department shall not impose limits or conditions implementing an adopted total maximum daily load in an NPDES permit until the permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted basin management action plan.

a. Absent a detailed allocation, total maximum daily loads shall be implemented through NPDES permit conditions that afford a compliance schedule. In such instances, a facility's NPDES permit shall allow time for the issuance of an order adopting the basin management action plan. The time allowed for the issuance of an order adopting the plan shall not exceed five years. Upon issuance of an order adopting the plan, the permit shall be reopened, as necessary, and permit conditions consistent with the plan shall be established. Notwithstanding the other provisions of this subparagraph, upon request by a NPDES permittee, the department as part of a permit issuance, renewal or modification may establish individual allocations prior to the adoption of a basin management action plan.

b. For holders of NPDES municipal separate storm sewer system permits and other stormwater sources, implementation of a total maximum daily load or basin management action plan shall be achieved, to the maximum extent practicable, through the use of best management practices or other management measures.

c. The basin management action plan does not relieve the discharger from any requirement to obtain, renew, or modify an NPDES permit or to abide by other requirements of the permit.

d. Management strategies set forth in a basin management action plan to be implemented by a discharger subject to permitting by the department shall be completed pursuant to the schedule set forth in the basin management action plan. This implementation schedule may extend beyond the 5-year term of an NPDES permit.

e. Management strategies and pollution reduction requirements set forth in a basin management action plan for a specific pollutant of concern shall not be subject to challenge under chapter 120 at the time they are incorporated, in an identical form, into a subsequent NPDES permit or permit modification.

f. For nonagricultural pollutant sources not subject to NPDES permitting but permitted pursuant to other state, regional, or local water quality programs, the pollutant reduction actions adopted in a basin management action plan shall be implemented to the maximum extent practicable as part of those permitting programs.

g. A nonpoint source discharger included in a basin management action plan shall demonstrate compliance with the pollutant reductions established pursuant to subsection (6) by either implementing the appropriate best management practices established pursuant to paragraph (c) or conducting water quality monitoring prescribed by the department or a water management district.

h. A nonpoint source discharger included in a basin management action plan may be subject to enforcement action by the department or a water management district based upon a failure to implement the responsibilities set forth in sub-subparagraph g.

i. A landowner, discharger, or other responsible person who is implementing applicable management strategies specified in an adopted basin management action plan shall not be required by permit, enforcement action, or otherwise to implement additional management strategies to reduce pollutant loads to attain the pollutant reductions established pursuant to subsection (6) and shall be deemed to be in compliance with this section. This subparagraph does not limit the authority of the department to amend a basin management action plan as specified in subparagraph (a)5.

(b) In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a watershed or basin management plan that addresses some or all of the watersheds and basins tributary to the water body. These plans will serve to fully integrate the management strategies available to the state for the purpose of implementing the total maximum daily loads and achieving water quality restoration. The watershed or basin management planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. The department or water management district shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practical extent. Notice of the public meeting shall be published in a newspaper of general circulation in each county in which the watershed or basin lies not less than 5 days nor more than 15 days before the public meeting. A watershed or basin management plan shall not supplant or otherwise alter any assessment made under s. 403.086(3) and (4), or any calculation or allocation made under s. 403.086(6).

(c) Best management practices.—

1. The department, in cooperation with the water management districts and other interested parties, as appropriate, may develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for nonagricultural nonpoint pollutant sources in allocations developed pursuant to subsection (6) and this subsection paragraph (6)(b). These practices and measures may be adopted by rule by the department and the water management districts pursuant to ss. 120.536(1) and 120.54, and, where adopted by rule, shall may be implemented by those parties responsible for nonagricultural nonpoint source pollution pollutant sources and the department and the water management districts shall assist with implementation. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to paragraph (6)(b) shall be verified by the department. Implementation, in accordance with applicable rules, of practices that have been verified by the department to be effective at representative sites shall provide a presumption of compliance with state water quality standards and release from the provisions of s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface or ground water caused by those pollutants. Such rules shall also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including recordkeeping requirements. Where water quality problems are detected despite the appropriate implementation, operation, and maintenance of best management practices and other measures according to rules adopted under this paragraph, the department or the water management districts shall institute a reevaluation of the best management practice or other measures.

2.(d)1. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54 suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources in allocations developed pursuant to subsection (6) and this subsection paragraph (6)(b). These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and the department, the water management districts, and the Department of Agriculture and Consumer Services shall assist with implementation. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to paragraph (6)(b) shall be verified by the department. Implementation, in accordance with applicable rules, of practices that have been verified by the department to be effective at representative sites shall provide a presumption of compliance with state water quality standards and release from the provisions of s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface or ground water caused by those pollutants. In the process of developing and adopting

rules for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services shall consult with the department, the Department of Health, the water management districts, representatives from affected farming groups, and environmental group representatives. Such rules shall also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including recordkeeping requirements. ~~Where water quality problems are detected despite the appropriate implementation, operation, and maintenance of best management practices and other measures according to rules adopted under this paragraph, the Department of Agriculture and Consumer Services shall institute a reevaluation of the best management practice or other measure.~~

3. *Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to subsection (6) and this subsection shall be verified at representative sites by the department. The department shall use best professional judgment in making the initial verification that the best management practices are effective and, where applicable, shall notify the appropriate water management district and the Department of Agriculture and Consumer Services of its initial verification prior to the adoption of a rule proposed pursuant to this paragraph. Implementation, in accordance with rules adopted under this paragraph, of practices that have been initially verified to be effective, or verified to be effective by monitoring at representative sites, by the department, shall provide a presumption of compliance with state water quality standards and release from the provisions of s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface water or ground-water caused by those pollutants.*

4. *Where water quality problems are demonstrated, despite the appropriate implementation, operation, and maintenance of best management practices and other measures according to rules adopted under this paragraph, the department, a water management district, or the Department of Agriculture and Consumer Services, in consultation with the department, shall institute a reevaluation of the best management practice or other measure. Should the reevaluation determine that the best management practice or other measure requires modification, the department, a water management district, or the Department of Agriculture and Consumer Services, as appropriate, shall revise the rule to require implementation of the modified practice within a reasonable time period as specified in the rule.*

5.2. Individual agricultural records relating to processes or methods of production, or relating to costs of production, profits, or other financial information which are otherwise not public records, which are reported to the Department of Agriculture and Consumer Services pursuant to subparagraphs 3. and 4. ~~this paragraph~~ or pursuant to any rule adopted pursuant to subparagraph 2. ~~this paragraph~~ shall be confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon request of the department or any water management district, the Department of Agriculture and Consumer Services shall make such individual agricultural records available to that agency, provided that the confidentiality specified by this subparagraph for such records is maintained. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

6.(e) The provisions of ~~subparagraphs 1. and 2. paragraphs (c) and (d)~~ shall not preclude the department or water management district from requiring compliance with water quality standards or with current best management practice requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. Additionally, ~~subparagraphs 1. and 2. paragraphs (c) and (d)~~ are applicable only to the extent that they do not conflict with any rules ~~adopted promulgated~~ by the department that are necessary to maintain a federally delegated or approved program.

(8) RULES.—The department is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 for:

(a) Delisting water bodies or water body segments from the list developed under subsection (4) pursuant to the guidance under subsection (5);

(b) Administration of funds to implement the total maximum daily load ~~and basin management action planning programs program;~~

(c) Procedures for pollutant trading among the pollutant sources to a water body or water body segment, including a mechanism for the issuance and tracking of pollutant credits. Such procedures may be implemented through permits or other authorizations and must be legally binding. *Prior to adopting rules for pollutant trading under this paragraph, and no later than November 30, 2006, the Department of Environmental Protection shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing recommendations on such rules, including the proposed basis for equitable economically based agreements and the tracking and accounting of pollution credits or other similar mechanisms. Such recommendations shall be developed in cooperation with a technical advisory committee that includes experts in pollutant trading and representatives of potentially affected parties; No rule implementing a pollutant trading program shall become effective prior to review and ratification by the Legislature; and*

(d) The total maximum daily load calculation in accordance with paragraph (6)(a) immediately upon the effective date of this act, for those eight water segments within Lake Okeechobee proper as submitted to the United States Environmental Protection Agency pursuant to subsection (2); and-

(e) Implementation of other specific provisions.

(11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.—

(a) The department shall not implement, without prior legislative approval, any additional regulatory authority pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part 130, if such implementation would result in water quality discharge regulation of activities not currently subject to regulation.

(b) Interim measures, best management practices, or other measures may be developed and voluntarily implemented pursuant to ~~subparagraphs paragraph~~ (7)(c) 1. and 2. ~~or paragraph (7)(d)~~ for any water body or segment for which a total maximum daily load or allocation has not been established. The implementation of such pollution control programs may be considered by the department in the determination made pursuant to subsection (4).

Section 5. Paragraph (c) of subsection (3) of section 373.4595, Florida Statutes, is amended to read:

373.4595 Lake Okeechobee Protection Program.—

(3) LAKE OKEECHOBEE PROTECTION PROGRAM.—A protection program for Lake Okeechobee that achieves phosphorus load reductions for Lake Okeechobee shall be immediately implemented as specified in this subsection. The program shall address the reduction of phosphorus loading to the lake from both internal and external sources. Phosphorus load reductions shall be achieved through a phased program of implementation. Initial implementation actions shall be technology-based, based upon a consideration of both the availability of appropriate technology and the cost of such technology, and shall include phosphorus reduction measures at both the source and the regional level. The initial phase of phosphorus load reductions shall be based upon the district's Technical Publication 81-2 and the district's WOD program, with subsequent phases of phosphorus load reductions based upon the total maximum daily loads established in accordance with s. 403.067. In the development and administration of the Lake Okeechobee Protection Program, the coordinating agencies shall maximize opportunities provided by federal cost-sharing programs and opportunities for partnerships with the private sector.

(c) Lake Okeechobee Watershed Phosphorus Control Program.—The Lake Okeechobee Watershed Phosphorus Control Program is designed to be a multifaceted approach to reducing phosphorus loads by improving the management of phosphorus sources within the Lake Okeechobee watershed through continued implementation of existing regulations and best management practices, development and implementation of improved best management practices, improvement and restoration of the hydrologic function of natural and managed systems, and utilization of alternative technologies for nutrient reduction. The coordinating agencies shall facilitate the application of federal programs that offer

opportunities for water quality treatment, including preservation, restoration, or creation of wetlands on agricultural lands.

1. Agricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Protection Program, shall be implemented on an expedited basis. By March 1, 2001, the coordinating agencies shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) that assures the development of best management practices that complement existing regulatory programs and specifies how those best management practices are implemented and verified. The interagency agreement shall address measures to be taken by the coordinating agencies during any best management practice reevaluation performed pursuant to sub-subparagraph d. The department shall use best professional judgment in making the initial determination of best management practice effectiveness.

a. As provided in s. 403.067(7)(c) ~~s. 403.067(7)(d)~~, by October 1, 2000, the Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall initiate rule development for interim measures, best management practices, conservation plans, nutrient management plans, or other measures necessary for Lake Okeechobee phosphorus load reduction. The rule shall include thresholds for requiring conservation and nutrient management plans and criteria for the contents of such plans. Development of agricultural nonpoint source best management practices shall initially focus on those priority basins listed in subparagraph (b)1. The Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall conduct an ongoing program for improvement of existing and development of new interim measures or best management practices for the purpose of adoption of such practices by rule.

b. Where agricultural nonpoint source best management practices or interim measures have been adopted by rule of the Department of Agriculture and Consumer Services, the owner or operator of an agricultural nonpoint source addressed by such rule shall either implement interim measures or best management practices or demonstrate compliance with the district's WOD program by conducting monitoring prescribed by the department or the district. Owners or operators of agricultural nonpoint sources who implement interim measures or best management practices adopted by rule of the Department of Agriculture and Consumer Services shall be subject to the provisions of s. 403.067(7). The Department of Agriculture and Consumer Services, in cooperation with the department and the district, shall provide technical and financial assistance for implementation of agricultural best management practices, subject to the availability of funds.

c. The district or department shall conduct monitoring at representative sites to verify the effectiveness of agricultural nonpoint source best management practices.

d. Where water quality problems are detected for agricultural nonpoint sources despite the appropriate implementation of adopted best management practices, the Department of Agriculture and Consumer Services, in consultation with the other coordinating agencies and affected parties, shall institute a reevaluation of the best management practices and make appropriate changes to the rule adopting best management practices.

2. Nonagricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Protection Program, shall be implemented on an expedited basis. By March 1, 2001, the department and the district shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) that assures the development of best management practices that complement existing regulatory programs and specifies how those best management practices are implemented and verified. The interagency agreement shall address measures to be taken by the department and the district during any best management practice reevaluation performed pursuant to sub-subparagraph d.

a. The department and the district are directed to work with the University of Florida's Institute of Food and Agricultural Sciences to develop appropriate nutrient application rates for all nonagricultural soil amendments in the watershed. As provided in s. 403.067(7)(c), by January 1, 2001, the department, in consultation with the district and affected parties, shall develop interim measures, best management practices, or other measures necessary for Lake Okeechobee phosphorus load

reduction. Development of nonagricultural nonpoint source best management practices shall initially focus on those priority basins listed in subparagraph (b)1. The department, the district, and affected parties shall conduct an ongoing program for improvement of existing and development of new interim measures or best management practices. The district shall adopt technology-based standards under the district's WOD program for nonagricultural nonpoint sources of phosphorus.

b. Where nonagricultural nonpoint source best management practices or interim measures have been developed by the department and adopted by the district, the owner or operator of a nonagricultural nonpoint source shall implement interim measures or best management practices and be subject to the provisions of s. 403.067(7). The department and district shall provide technical and financial assistance for implementation of nonagricultural nonpoint source best management practices, subject to the availability of funds.

c. The district or the department shall conduct monitoring at representative sites to verify the effectiveness of nonagricultural nonpoint source best management practices.

d. Where water quality problems are detected for nonagricultural nonpoint sources despite the appropriate implementation of adopted best management practices, the department and the district shall institute a reevaluation of the best management practices.

3. The provisions of subparagraphs 1. and 2. shall not preclude the department or the district from requiring compliance with water quality standards or with current best management practices requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. Additionally, subparagraphs 1. and 2. are applicable only to the extent that they do not conflict with any rules promulgated by the department that are necessary to maintain a federally delegated or approved program.

4. Projects which reduce the phosphorus load originating from domestic wastewater systems within the Lake Okeechobee watershed shall be given funding priority in the department's revolving loan program under s. 403.1835. The department shall coordinate and provide assistance to those local governments seeking financial assistance for such priority projects.

5. Projects that make use of private lands, or lands held in trust for Indian tribes, to reduce nutrient loadings or concentrations within a basin by one or more of the following methods: restoring the natural hydrology of the basin, restoring wildlife habitat or impacted wetlands, reducing peak flows after storm events, increasing aquifer recharge, or protecting range and timberland from conversion to development, are eligible for grants available under this section from the coordinating agencies. For projects of otherwise equal priority, special funding priority will be given to those projects that make best use of the methods outlined above that involve public-private partnerships or that obtain federal match money. Preference ranking above the special funding priority will be given to projects located in a rural area of critical economic concern designated by the Governor. Grant applications may be submitted by any person or tribal entity, and eligible projects may include, but are not limited to, the purchase of conservation and flowage easements, hydrologic restoration of wetlands, creating treatment wetlands, development of a management plan for natural resources, and financial support to implement a management plan.

6.a. The department shall require all entities disposing of domestic wastewater residuals within the Lake Okeechobee watershed and the remaining areas of Okeechobee, Glades, and Hendry Counties to develop and submit to the department an agricultural use plan that limits applications based upon phosphorus loading. By July 1, 2005, phosphorus concentrations originating from these application sites shall not exceed the limits established in the district's WOD program.

b. Private and government-owned utilities within Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Okeechobee, Highlands, Hendry, and Glades Counties that dispose of wastewater residual sludge from utility operations and septic removal by land spreading in the Lake Okeechobee watershed may use a line item on local sewer rates to cover wastewater residual treatment and disposal if such disposal and treatment is done by approved alternative treatment methodology at a facility located within the areas designated by the Governor as rural areas of critical economic concern pursuant to s.

288.0656. This additional line item is an environmental protection disposal fee above the present sewer rate and shall not be considered a part of the present sewer rate to customers, notwithstanding provisions to the contrary in chapter 367. The fee shall be established by the county commission or its designated assignee in the county in which the alternative method treatment facility is located. The fee shall be calculated to be no higher than that necessary to recover the facility's prudent cost of providing the service. Upon request by an affected county commission, the Florida Public Service Commission will provide assistance in establishing the fee. Further, for utilities and utility authorities that use the additional line item environmental protection disposal fee, such fee shall not be considered a rate increase under the rules of the Public Service Commission and shall be exempt from such rules. Utilities using the provisions of this section may immediately include in their sewer invoicing the new environmental protection disposal fee. Proceeds from this environmental protection disposal fee shall be used for treatment and disposal of wastewater residuals, including any treatment technology that helps reduce the volume of residuals that require final disposal, but such proceeds shall not be used for transportation or shipment costs for disposal or any costs relating to the land application of residuals in the Lake Okeechobee watershed.

c. No less frequently than once every 3 years, the Florida Public Service Commission or the county commission through the services of an independent auditor shall perform a financial audit of all facilities receiving compensation from an environmental protection disposal fee. The Florida Public Service Commission or the county commission through the services of an independent auditor shall also perform an audit of the methodology used in establishing the environmental protection disposal fee. The Florida Public Service Commission or the county commission shall, within 120 days after completion of an audit, file the audit report with the President of the Senate and the Speaker of the House of Representatives and shall provide copies to the county commissions of the counties set forth in sub-subparagraph b. The books and records of any facilities receiving compensation from an environmental protection disposal fee shall be open to the Florida Public Service Commission and the Auditor General for review upon request.

7. The Department of Health shall require all entities disposing of septage within the Lake Okeechobee watershed and the remaining areas of Okeechobee, Glades, and Hendry Counties to develop and submit to that agency, by July 1, 2003, an agricultural use plan that limits applications based upon phosphorus loading. By July 1, 2005, phosphorus concentrations originating from these application sites shall not exceed the limits established in the district's WOD program.

8. The Department of Agriculture and Consumer Services shall initiate rulemaking requiring entities within the Lake Okeechobee watershed and the remaining areas of Okeechobee, Glades, and Hendry Counties which land-apply animal manure to develop conservation or nutrient management plans that limit application, based upon phosphorus loading. Such rules may include criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, and recordkeeping requirements.

9. Prior to authorizing a discharge into works of the district, the district shall require responsible parties to demonstrate that proposed changes in land use will not result in increased phosphorus loading over that of existing land uses.

10. The district, the department, or the Department of Agriculture and Consumer Services, as appropriate, shall implement those alternative nutrient reduction technologies determined to be feasible pursuant to subparagraph (d)6.

Section 6. Subsection (1) of section 570.085, Florida Statutes, is amended to read:

570.085 Department of Agriculture and Consumer Services; agricultural water conservation.—The department shall establish an agricultural water conservation program that includes the following:

(1) A cost-share program, coordinated where appropriate with the United States Department of Agriculture and other federal, state, regional, and local agencies, for irrigation system retrofit and application of mobile irrigation laboratory evaluations for water conservation as provided in this section and, where applicable, for water quality improvement pursuant to s. 403.067(7)(c) ~~s. 403.067(7)(d)~~.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 16, after the semicolon (;) insert: amending s. 403.067, F.S.; providing that initial allocation of allowable pollutant loads between point and nonpoint sources may be developed as part of a total maximum daily load; establishing criteria for establishing initial and detailed allocations to attain pollutant reductions; authorizing the Department of Environmental Protection to adopt phased total maximum daily loads that establish incremental total maximum daily loads under certain conditions; requiring the development of basin management action plans; requiring that basin management action plans integrate the appropriate management strategies to achieve the total maximum daily loads; requiring that the plans establish a schedule for implementing management strategies; requiring that a basin management action plan equitably allocate pollutant reductions to individual basins or to each identified point source or category of nonpoint sources; authorizing that plans may provide pollutant load reduction credits to dischargers that have implemented strategies to reduce pollutant loads prior to the development of the basin management action plan; requiring that the plan identify mechanisms by which potential future sources of pollution will be addressed; requiring that the department assure key stakeholder participation in the basin management action planning process; requiring that the department hold at least one public meeting to discuss and receive comments during the planning process; providing notice requirements; requiring that the department adopt all or part of a basin management action plan by secretarial order pursuant to ch. 120, F.S.; requiring that basin management action plans that alter that calculation or initial allocation of a total maximum daily load, the revised calculation, or initial allocation must be adopted by rule; requiring periodic evaluation of basin management action plans; requiring that revisions to plans be made by the department in cooperation with stakeholders; providing for basin plan revisions regarding nonpoint pollutant sources; requiring that adopted basin management action plans be included in subsequent NPDES permits or permit modifications; providing that implementation of a total maximum daily load or basin management action plan for holders of an NPDES municipal separate stormwater sewer system permit may be achieved through the use of best management practices; providing that basin management action plans do not relieve a discharger from the requirement to obtain, renew, or modify an NPDES permit or to abide by other requirements of the permit; requiring that plan management strategies be completed pursuant to the schedule set forth in the basin management action plan and providing that the implementation schedule may extend beyond the term of an NPDES permit; providing that management strategies and pollution reduction requirements in a basin management action plan for a specific pollutant of concern are not subject to a challenge under ch. 120, F.S., at the time they are incorporated, in identical form, into a subsequent NPDES permit or permit modification; requiring timely adoption and implementation of pollutant reduction actions for nonagricultural pollutant sources not subject to NPDES permitting but regulated pursuant to other state, regional, or local regulatory programs; requiring timely implementation of best management practices for nonpoint pollutant source dischargers not subject to permitting at the time a basin management action plan is adopted; providing for presumption of compliance under certain circumstances; providing for enforcement action by the department or a water management district; requiring that a landowner, discharger, or other responsible person that is implementing management strategies specified in an adopted basin management action plan will not be required by permit, enforcement action, or otherwise to implement additional management strategies to reduce pollutant loads; providing that the authority of the department to amend a basin management plan is not limited; requiring that the department verify at representative sites the effectiveness of interim measures, best management practices, and other measures adopted by rule; requiring that the department use its best professional judgment in making initial verifications that best management practices are not effective; requiring notice to the appropriate water management district and the Department of Agriculture and Consumer Services under certain conditions; establishing a presumption of compliance for implementation of practices initially verified to be effective or verified to be effective at representative sites; limiting the institution of proceedings by the department against the owner of a source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants; requiring the Department of Agriculture and Consumer Services to institute a reevaluation of best management practices or other measures where water quality problems are detected or

predicted during the development or amendment of a basin management action plan; providing for rule revisions; providing the department with rulemaking authority; requiring that a report be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing recommendations on rules for pollutant trading prior to the adoption of those rules; requiring that recommendations be developed in cooperation with a technical advisory committee containing experts in pollutant trading and representatives of potentially affected parties; deleting a requirement that no pollutant trading program shall become effective prior to review and ratification by the Legislature; amending ss. 373.4595 and 570.085, F.S.; correcting cross-references;

Pursuant to Rule 4.19, **HB 1855** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Smith, by two-thirds vote **HB 1231** was withdrawn from the Committees on Agriculture; Banking and Insurance; and Judiciary.

On motion by Senator Smith—

HB 1231—A bill to be entitled An act relating to dealers in agricultural products; amending s. 604.15, F.S.; revising definitions; expanding the list of products covered by the law; defining the terms “negotiating broker” and “producer’s agent”; amending s. 604.16, F.S.; revising exceptions to provisions regulating dealers; amending s. 604.18, F.S., relating to applications for dealer licensure; requiring dealers to provide mailing and location address information; requiring dealers to provide certain information relating to the dollar amount of business done or to be done; amending s. 604.19, F.S.; providing requirements relating to cancellation of a bond or certificate of deposit; increasing license fees and delinquent renewal penalties; amending s. 604.20, F.S.; increasing the minimum amount of a bond or certificate of deposit for licensure; providing a calculation for the amount of a bond or certificate of deposit; adding requirements relating to bond or certificate of deposit assignment or agreement; authorizing the Department of Agriculture and Consumer Services to issue a conditional license under certain conditions; amending s. 604.21, F.S.; increasing the minimum claim amount and requiring a complaint filing fee; providing requirements for submission of a complaint and payment for multiple claims; authorizing a dealer in agricultural products to file a complaint against another dealer in agricultural products; limiting the time a complaint may be held in abeyance; authorizing review of a final order; clarifying distribution of bond or certificate of deposit proceeds; amending s. 604.22, F.S.; revising recordkeeping requirements of licensees; clarifying application of provisions; amending ss. 604.23 and 604.25, F.S.; clarifying application of provisions; amending s. 604.30, F.S.; clarifying that a violator of provisions regulating dealers in agricultural products may be a person, partnership, corporation, or other business entity; increasing the maximum administrative fine and the fine for continued violation of an administrative order; providing an appropriation and authorizing full-time equivalent positions; providing an effective date.

—a companion measure, was substituted for **CS for SB 1780** and read the second time by title.

Pursuant to Rule 4.19, **HB 1231** was placed on the calendar of Bills on Third Reading.

The Senate resumed consideration of—

CS for CS for SB 2086—A bill to be entitled An act relating to elections; amending s. 97.012, F.S.; exempting certain voter-education activities from requirements for competitive solicitation; authorizing the Secretary of State to investigate voter fraud; authorizing the Department of State to adopt rules; amending s. 97.021, F.S.; defining the term “marksense ballots”; defining the terms “early voting area,” “early voting site,” and “third-party voter registration organization”; creating s. 97.029, F.S.; providing for attorney’s fees and costs in any action for injunctive relief or an action challenging an election law or voter-registration law; requiring an itemized affidavit; providing for review of an award of attorney’s fees and costs; providing a limitation on the amount awarded; amending s. 97.051, F.S.; revising the oath required upon registering to vote; amending s. 97.052, F.S.; revising the contents

of the uniform statewide voter registration application; amending s. 97.053, F.S.; revising provisions governing the acceptance of voter registration applications by the supervisor of elections; requiring that an applicant complete a registration application before the date of book closing in order to be eligible to vote in that election; revising the information required on the registration application; amending s. 97.055, F.S.; limiting the updates that may be made to registration information following book closing; creating s. 97.0575, F.S.; providing requirements for third-party voter registration organizations that collect voter-registration applications; providing fines for failure to deliver applications as required; authorizing the Division of Elections to adopt rules to administer provisions governing third-party voter registration organizations; amending s. 97.071, F.S.; specifying the information to be included on the registration identification card; amending s. 98.045, F.S.; deleting a cross-reference; amending s. 98.077, F.S.; revising the procedures for updating a voter signature used to verify an absentee ballot or provisional ballot; amending s. 99.061, F.S.; providing for qualifying for nomination or election by the petition process; requiring the filing of statements of financial interest; requiring that a qualifying officer accept certain qualifying papers filed before the qualifying period; amending s. 99.063, F.S.; providing filing requirements for public officers; amending s. 99.092, F.S., relating to qualifying fees; clarifying provisions governing qualifying for nomination or election by the petition process to conform to changes made by the act; amending s. 99.095, F.S.; revising the requirements for qualifying as a candidate by a petition process in lieu of paying a qualifying fee and party assessment; providing requirements for submitting petitions and certifications; requiring that the division or supervisor of elections, as applicable, determine whether the required number of signatures has been obtained; amending s. 99.0955, F.S.; providing procedures for a candidate having no party affiliation to qualify by the petition process; amending s. 99.096, F.S.; revising the procedures for a minor political party to submit nominated candidates to be on the general election ballot; providing for candidates to qualify by the petition process; amending s. 99.09651, F.S., relating to signature requirements for ballot position; conforming provisions to changes made by the act; amending s. 100.011, F.S.; requiring that an elector in line at the time the polls close be allowed to vote; amending s. 100.101, F.S.; revising the circumstances under which a special election or primary is held; amending s. 100.111, F.S.; revising requirements for filling a vacancy in a nomination; requiring that ballots cast for a former nominee be counted for the person designated to replace the nominee under certain circumstances; amending s. 100.141, F.S., relating to the notice of a special election; conforming provisions to changes made by the act; amending s. 101.031, F.S.; revising the Voter’s Bill of Rights to authorize a provisional ballot if a person’s identity is in question; amending s. 101.043, F.S.; revising the procedures for a voter to provide identification when voting; amending s. 101.048, F.S.; providing for certain additional voters to cast provisional ballots; providing requirements for presenting evidence in support of a person’s right to vote; requiring that the county canvassing board count such a ballot unless it determines by a preponderance of the evidence that the person was not entitled to vote; requiring that a person casting a provisional ballot be informed of certain rights; amending s. 101.049, F.S.; providing requirements for ballots for persons with disabilities; amending s. 101.051, F.S.; prohibiting certain solicitations to provide assistance to an elector; providing a penalty; authorizing an elector to request that a person other than an election official provide him or her with assistance in voting; providing for the form of the oath to be signed; amending s. 101.111, F.S.; revising the requirements for challenging an elector’s right to vote; providing a penalty for filing a frivolous challenge; amending s. 101.131, F.S.; revising requirements for poll watchers; authorizing certain political committees to have poll watchers; prohibiting a poll watcher from interacting with a voter; providing for poll watchers at early voting areas; amending s. 101.151, F.S.; providing requirements for marksense ballots; amending s. 101.171, F.S.; requiring that a copy of a proposed constitutional amendment be available at voting locations; amending s. 101.294, F.S.; prohibiting a vendor of voting equipment from providing systems, components, or system upgrades to a local governing body or supervisor of elections which have not been certified by the Division of Elections; requiring that the vendor provide sworn certification of such equipment; amending s. 101.295, F.S.; providing a penalty for providing voting equipment in violation of ch. 101, F.S.; amending s. 101.49, F.S.; revising the procedures for verifying an elector’s signature; amending s. 101.51, F.S.; requiring that an elector occupy a voting booth alone; amending s. 101.5606, F.S., relating to requirements for approval of voting systems, to conform; amending s. 101.5608, F.S., relating to voting by electronic or electromechanical methods, to conform; amending s. 101.5612, F.S.; providing requirements for testing voting equipment; amending s.

101.5614, F.S.; correcting a cross-reference; amending s. 101.572, F.S.; requiring that the supervisor of elections notify the candidates if ballots are examined before the end of the contest; amending s. 101.58, F.S.; authorizing employees of the department to have access to the premises, records, equipment, and staff of the supervisors of elections; amending s. 101.595, F.S.; requiring that certain overvotes and undervotes be reported to the department; amending s. 101.6103, F.S.; authorizing the canvassing board to begin canvassing before the election; prohibiting the release of results before election day; providing a penalty for any early release of results; requiring that a mail ballot that otherwise satisfies the requirements of law for mail ballots be counted even if the elector dies after mailing the ballot but before election day if certain conditions are met; amending s. 101.62, F.S.; revising the requirements for mailing absentee ballots to voters; amending s. 101.64, F.S.; providing for an oath to be provided to persons voting absentee under the Uniformed and Overseas Citizens Absentee Voting Act; amending s. 101.657, F.S.; revising requirements relating to early voting locations; revising the deadline to end early voting and the times for opening and closing the early voting sites each day; providing for uniformity of county early voting sites; requiring any person in line at the closing of an early voting site to be allowed to vote; providing for early voting in municipal and special district elections; requiring supervisors to provide certain information in electronic format to the Division of Elections; requiring that an early voting ballot that otherwise satisfies the requirements of law for early voting ballots be counted even if the elector dies on or before election day; amending s. 101.663, F.S.; providing for certain persons to vote absentee after moving to another state; amending s. 101.68, F.S.; prohibiting changing a voter's certificate after the absentee ballot is received by the supervisor; providing that electors who die on or before election day and have cast an absentee ballot shall remain on the voter registration books until the election is certified; providing that the ballot of an elector who casts an absentee ballot shall be counted even if the elector dies on or before election day if certain conditions are met; amending s. 101.69, F.S.; prohibiting a voter from voting another ballot after casting an absentee ballot; providing for a provisional ballot under certain circumstances; amending s. 101.6923, F.S.; providing for the form of the printed instructions on an absentee ballot; amending s. 101.694, F.S.; providing requirements for absentee envelopes printed for voters voting under the Uniformed and Overseas Citizens Absentee Voting Act; amending s. 101.697, F.S.; requiring the Department of State to determine whether secure electronic ballots may be provided for overseas voters; requiring that the department adopt rules for accepting overseas ballots; amending s. 102.012, F.S.; requiring the supervisor of elections to appoint an election board before any election; providing duties of the board; amending s. 102.014, F.S.; requiring that the Division of Elections develop a uniform training curriculum for poll workers; amending s. 102.031, F.S.; providing requirements for maintaining order at early voting areas; requiring the designation of a no-solicitation zone; prohibiting photography in a polling room or early voting area; amending s. 102.071, F.S.; revising requirements for tabulating votes; amending s. 102.111, F.S.; providing for corrections to be made to the official election returns; amending s. 102.112, F.S.; requiring that a return contain a certification by the canvassing board; authorizing the Department of State to correct typographical errors; amending s. 102.141, F.S.; revising requirements for the canvassing boards in submitting returns to the department; providing requirements for the report filed by the canvassing board; requiring the department to adopt rules for filing results and statistical information; amending s. 102.166, F.S.; revising the circumstances under which a manual recount may be ordered; amending s. 102.168, F.S.; requiring that complaints be filed with the board responsible for certifying the election results; specifying the parties to an action who may contest an election or nomination; amending s. 103.021, F.S.; providing for nomination of presidential electors by the state executive committee of each political party; defining the term "national party" for purposes of nominating a candidate for President and Vice President of the United States; amending ss. 103.051 and 103.061, F.S.; specifying duties of the presidential electors; amending s. 103.121, F.S.; revising powers and duties of executive committees to conform to changes made by the act; amending s. 105.031, F.S.; providing for public officers to file a statement of financial interests at the time of qualifying; requiring that a filing officer accept certain qualifying papers filed before the qualifying period; amending s. 105.035, F.S.; revising procedures for qualifying for certain judicial offices and the office of school board member; prohibiting a candidate from obtaining signatures until appointing a campaign treasurer and designating a campaign depository; revising the requirements for the supervisor of elections with respect to certifying signatures; creating s. 106.022, F.S.; requiring that a political committee, committee of continuous existence, or electioneering communica-

tions entity maintain a registered office and registered agent; providing requirements for the statement of appointment; amending s. 106.24, F.S.; clarifying the duties of the Secretary of State; amending s. 106.141, F.S., relating to the disposition of surplus funds; conforming provisions to changes made by the act; transferring and renumbering s. 98.122, F.S., relating to the use of closed captioning and descriptive narrative in television broadcasts; amending s. 106.22, F.S.; eliminating certain duties of the Division of Elections with respect to reports to the Legislature and preliminary investigations; amending s. 16.56, F.S.; authorizing the Office of Statewide Prosecution to investigate and prosecute crimes involving voter registration, voting, or certain petition activities; amending s. 119.07, F.S.; clarifying requirements of the supervisor of elections with respect to notifying candidates of the inspection of ballots; amending s. 145.09, F.S.; requiring that the Department of State adopt rules establishing certification requirements for supervisors of elections; creating s. 104.0615, F.S.; providing a short title; prohibiting a person from using or threatening to use force, violence, or intimidation to induce or compel an individual to vote or refrain from voting, to refrain from registering to vote, or to refrain from acting as an election official or poll watcher; prohibiting a person from knowingly using false information to challenge an individual's right to vote, to induce an individual to refrain from registering to vote, or to induce or attempt to induce an individual to refrain from acting as an election official or poll watcher; prohibiting a person from knowingly destroying, mutilating, or defacing a voter registration form or election ballot or obstructing or delaying the delivery of a voter registration form or election ballot; providing criminal penalties; repealing ss. 98.095, 98.0979, 98.181, 98.481, 101.253, 101.635, 102.061, 106.085, and 106.144, F.S., relating to inspections of county registers and the voter database, indexes and records, challenges to elections, the printing and distribution of ballots, duties of the election board, expenditures, and endorsements or opposition by certain groups; providing for severability; providing effective dates.

—which was previously considered and amended this day.

On motion by Senator Posey, by two-thirds vote **HB 1567** was withdrawn from the Committees on Ethics and Elections; Judiciary; Transportation and Economic Development Appropriations; Ways and Means; and Rules and Calendar.

On motion by Senator Posey—

HB 1567—A bill to be entitled An act relating to elections; amending s. 97.012, F.S.; revising duties of the Secretary of State as chief election officer; amending s. 97.021, F.S.; revising definitions; creating s. 97.029, F.S.; relating to the award of attorney's fees and costs in proceedings challenging election or voter registration law; amending s. 97.051, F.S.; revising the oath a person must take to register to vote; amending s. 97.052, F.S.; revising provisions relating to the uniform statewide voter registration application; removing the requirement that the uniform statewide voter registration application must contain certain homestead exemption information; providing for applicant notification upon his or her failure to answer required information on the voter registration application form; amending s. 97.053, F.S.; revising criteria for a voter registration application to be deemed complete; specifying where an initial voter registration application may be mailed; amending s. 97.055, F.S.; providing for permitted updates once registration books are closed; creating s. 97.0575, F.S.; regulating third-party voter registrations and registration organizations; requiring third-party voter registration organizations to name a registered agent and submit certain information to the Division of Elections; providing for a fiduciary duty of the third-party voter registration organization to the applicant; providing for joint and several liability for a breach of fiduciary duty; specifying fines; authorizing the division to investigate certain violations; providing for collected fines to be set aside by the division in a trust fund; authorizing the division to adopt certain rules; amending s. 98.045, F.S.; correcting a cross reference; amending s. 98.077, F.S.; providing for signature updates for use in verifying absentee and provisional ballots; providing a deadline for the supervisor of elections to receive voter signature updates; amending s. 99.061, F.S.; amending to conform; revising a financial disclosure requirement for candidate qualification; providing a submission deadline for qualifying papers; amending s. 99.063, F.S.; revising a financial disclosure requirement for certain designated candidates; amending s. 99.092, F.S., relating to qualifying fees of candidates, to conform; amending s. 99.095, F.S.; providing for a petition process in lieu of a qualifying fee and party assessment; providing requirements for signatures and petition format; providing submission deadlines; amending s. 99.0955, F.S.; revising provisions relating to candidates with no

party affiliation; amending to conform; deleting obsolete provisions; amending s. 99.096, F.S.; revising filing requirements of minor political party candidates; amending to conform; deleting obsolete provisions; amending s. 99.09651, F.S., relating to signature requirements for ballot position in a year of apportionment, to conform; amending s. 100.011, F.S.; requiring electors in line at the official closing of the polls to be allowed to vote; amending s. 100.101, F.S.; deleting a provision requiring a special election to be held if a vacancy occurs in nomination; amending s. 100.111, F.S.; revising requirements relating to filling candidate vacancies; deleting provisions relating to a prohibition of qualified candidates to fill a vacancy in nomination; deleting obsolete provisions; amending s. 100.141, F.S.; conforming provisions relating to vacancies in nomination and qualifying by an alternative method; amending s. 101.031, F.S.; revising the voter's bill of rights to allow for an elector whose identity in question to cast a provisional ballot and to remove the right for an elector to prove identity by signing an affidavit; amending s. 101.043, F.S., relating to identification required at polls, to conform; amending s. 101.048, F.S.; providing a person casting a provisional ballot the right to present certain eligibility evidence by a certain date; providing for the county canvassing board to review provisional ballot voter's certificates and affirmations; providing a standard of review; revising the provisional ballot voter's certificate and affirmation form; revising provisions relating to casting provisional ballots by electronic means; amending s. 101.049, F.S.; providing for provisional ballots and persons with disabilities; amending s. 101.051, F.S.; prohibiting solicitation of assistance to electors with certain disabilities at certain locations; providing a penalty; requiring a person providing an elector assistance to vote to take a specified oath; amending s. 101.111, F.S.; revising the oath taken by persons challenging the right of a person to vote; deleting the oath required to be taken by a person whose right to vote was challenged and allowing that person to cast a provisional ballot; providing a prohibition against and penalty for frivolous challenges; amending s. 101.131, F.S.; allowing certain poll watchers in early voting areas and polling rooms; providing limitations and restrictions on behavior of poll watchers; providing deadlines regarding designation and approval of poll watchers; amending s. 101.151, F.S.; replacing paper ballots with marksense ballots and accompanying specifications; amending s. 101.171, F.S.; requiring a copy of constitutional amendments to be available at polling locations in poster or booklet form; amending s. 101.294, F.S.; prohibiting a vendor of voting equipment from providing an uncertified voting system or upgrade; providing for certification of voting systems and upgrades; amending s. 101.295, F.S.; providing a penalty; amending s. 101.49, F.S.; revising the procedure of election officers where signatures differ; amending s. 101.51, F.S., relating to electors' occupation of booths, to conform; amending s. 101.5606, F.S., relating to requirements for approval of voting systems, to conform; amending s. 101.5608, F.S., relating to voting by electronic or electromechanical methods, to conform; amending s. 101.5612, F.S.; providing for additional testing of voting systems under certain circumstances; amending s. 101.5614, F.S.; correcting a cross reference; amending s. 101.572, F.S.; revising a provision relating to the public inspection of ballots; amending s. 101.58, F.S.; authorizing certain employees of the Department of State full access to all premises, records, equipment, and staff of the supervisor of elections; amending s. 101.595, F.S.; providing for the reporting of overvotes and undervotes in races for President and Vice President and Governor and Lieutenant Governor or, alternatively, other races appearing first on the ballot; amending s. 101.6103, F.S.; correcting a cross reference; authorizing canvassing boards to begin canvassing mail ballots before the election; providing a time when the results may be released; providing a penalty; amending s. 101.62, F.S.; revising provisions relating to the deadline by which the supervisor of elections must receive a request for an absentee ballot to be mailed to a voter; requiring absentee ballots to be mailed by a certain time; requiring certain information to be available and updated in electronic format as provided by rule adopted by the division; requiring information relating to absentee receipt and delivery dates to be available to the voter requesting the ballot; providing for unavailable regular absentee ballots for overseas electors; providing a deadline by which an absentee ballot request may be fulfilled by personal delivery; amending s. 101.64, F.S.; providing for a certain oath to be provided to overseas electors in lieu of a voter's certificate; amending s. 101.657, F.S.; revising requirements relating to early voting locations; revising the deadline to end early voting and the times for opening and closing the early voting sites each day; providing for uniformity of county early voting sites; requiring any person in line at the closing of an early voting site to be allowed to vote; providing for early voting in municipal and special district elections; requiring supervisors to provide certain information in electronic format to the Division of Elections; amending s. 101.663, F.S.; revising provisions relating to

certain electors who move to another state; amending s. 101.68, F.S.; providing that an absentee ballot is deemed to have been cast once it has been received by the supervisor; amending s. 101.69, F.S.; revising a provision relating to voting in person by electors who have requested absentee ballots; amending s. 101.6923, F.S.; revising a provision relating to special absentee ballot instructions for certain voters; amending s. 101.694, F.S.; requiring certain absentee envelopes to meet specifications as determined by a certain federal program; amending s. 101.697, F.S.; providing a condition on the department's ability to accept certain election materials by electronic transmission from overseas voters; amending s. 102.012, F.S.; revising provisions to require supervisors of election to appoint one election board for each precinct; requiring each supervisor to furnish inspectors of election in each precinct with the list of registered voters for the precinct; amending s. 102.014, F.S.; requiring the division to develop a uniform training curriculum for poll workers; revising grounds upon which a supervisor shall replace an inspector or clerk; revising requirements relating to the provisions and availability of a uniform polling place procedures manual; amending s. 102.031, F.S.; revising a provision relating to maintenance of good order at polls, authorities, persons allowed in polling rooms, and unlawful solicitation of voters to apply to early voting areas; providing for the designation of the no solicitation zone; prohibiting photography in a polling room or early voting area; amending s. 102.071, F.S.; decreasing the certificates of the results needed to one; amending s. 102.111, F.S.; providing for typographical errors in official county returns to be certified by the Elections Canvassing Commission; amending s. 102.112, F.S.; requiring the county returns to contain a certain certification; authorizing the department to correct typographical errors in county returns; amending s. 102.141, F.S.; revising provisions relating to county canvassing boards and their duties; requiring that the county canvassing board be responsible for ordering county and local recounts; revising deadlines relating to submission of unofficial returns; adding procedure and content requirements relating to county canvassing boards' reports on conduct of elections; requiring the supervisor of elections to file or export files to the department from election results and other statistical information as may be requested by the department, the Legislature, and the Election Assistance Commission; requiring the department to adopt rules establishing the required content and acceptable formats for certain filings; amending s. 102.166, F.S.; revising provisions relating to manual recounts; amending s. 102.168, F.S.; revising proper party defendants in actions contesting the election or nomination of a candidate; amending s. 103.021, F.S.; requiring the state executive committee of each political party to recommend candidates for presidential electors to the Governor using a specified procedure; providing definitions; amending ss. 103.051 and 103.061, F.S.; revising certain meeting and notice times of the presidential electors; amending s. 103.121, F.S.; revising the powers and duties of executive committees; amending s. 105.031, F.S.; exempting school board candidates from qualifying fee requirements; providing a time by which a qualifying officer may accept and hold certain qualifying papers; amending s. 105.035, F.S.; renaming the "alternative method" of qualifying for certain offices as the "petition process"; removing provisions requiring a person seeking to qualify by the petition process to file a certain oath; providing a limitation upon elector signatures needed by certain candidates; revising deadlines; transferring s. 98.122, F.S., relating to closed caption television broadcasting requirements, and renumbering the section as s. 106.165, F.S.; amending s. 106.22, F.S.; revising the duties of the Division of Elections to remove the duty to conduct certain investigations and make subsequent reports; amending s. 106.29, F.S., relating to the powers and duties of the Florida Elections Commission, to conform; amending s. 16.56, F.S.; authorizing the Office of Statewide Prosecution to investigate and prosecute the offenses of crimes involving voter registration, voting, or candidate or issue petition activities; amending s. 119.07, F.S.; placing a condition on when the supervisor of elections shall notify certain candidates of ballot inspection; amending s. 145.09, F.S.; requiring the Department of State to adopt rules establishing certification requirements of supervisors of elections; repealing s. 98.095, F.S., relating to county registers open to inspection and copies; repealing s. 98.0979, F.S.; relating to the statewide voter registration database's being open to inspection and copies; repealing s. 98.181, F.S., relating to supervisors of elections making up indexes or records; repealing s. 98.481, F.S., relating to challenge to electors; repealing s. 101.253, F.S.; relating to when names are not to be printed on ballots; repealing s. 101.635, F.S.; relating to distribution of blocks of printed ballots; repealing s. 102.061, F.S.; relating to duties of election board, counting, and closing polls; repealing s. 106.085, F.S., relating to independent expenditures, prohibited unfair surprise, notice requirements, and a penalty; repealing s. 106.144, F.S.; relating to en-

dorsements or opposition by certain groups and organizations; providing for severability; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 2086** as amended and read the second time by title.

Senator Posey moved the following amendment:

Amendment 1 (391872)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 97.012, Florida Statutes, is amended to read:

97.012 Secretary of State as chief election officer.—The Secretary of State is the chief election officer of the state, and it is his or her responsibility to:

- (1) Obtain and maintain uniformity in the application, operation, and interpretation of the election laws.
- (2) Provide uniform standards for the proper and equitable implementation of the registration laws.
- (3) Actively seek out and collect the data and statistics necessary to knowledgeably scrutinize the effectiveness of election laws.
- (4) Provide technical assistance to the supervisors of elections on voter education and election personnel training services.
- (5) Provide technical assistance to the supervisors of elections on voting systems.
- (6) Provide voter education assistance to the public.
- (7) Coordinate the state's responsibilities under the National Voter Registration Act of 1993.
- (8) Provide training to all affected state agencies on the necessary procedures for proper implementation of this chapter.
- (9) Ensure that all registration applications and forms prescribed or approved by the department are in compliance with the Voting Rights Act of 1965 and the National Voter Registration Act of 1993.
- (10) Coordinate with the United States Department of Defense so that armed forces recruitment offices administer voter registration in a manner consistent with the procedures set forth in this code for voter registration agencies.
- (11) Create and ~~administer maintain~~ a statewide voter registration system as required by the Help America Vote Act of 2002 ~~database~~.
- (12) Maintain a voter fraud hotline and provide election fraud education to the public.
- (13) Designate an office within the department to be responsible for providing information regarding voter registration procedures and absentee ballot procedures to absent uniformed services voters and overseas voters.

(14) *Conduct preliminary investigations into any irregularities or fraud involving voter registration, voting, or candidate or issue petition activities and report his or her findings to the statewide prosecutor or the state attorney for the judicial circuit in which the alleged violation occurred for prosecution, if warranted. The Department of State may prescribe by rule requirements for filing an elections-fraud complaint and for investigating any such complaint.*

Section 2. Subsection (3) and present subsections (24) and (39) of section 97.021, Florida Statutes, are amended, present subsections (8) through (33) of that section are redesignated as subsections (10) through (35), respectively, present subsections (34) through (39) of that section are redesignated as subsections (37) through (42), respectively, and new subsections (8), (9), and (36) are added to that section, to read:

97.021 Definitions.—For the purposes of this code, except where the context clearly indicates otherwise, the term:

- (3) “Ballot” or “official ballot” when used in reference to:

(a) “~~Marksense Paper~~ ballots” means that printed sheet of paper, used in conjunction with an electronic or electromechanical vote tabulation voting system, containing the names of candidates, or a statement of proposed constitutional amendments or other questions or propositions submitted to the electorate at any election, on which sheet of paper an elector casts his or her vote.

(b) “Electronic or electromechanical devices” means a ballot that is voted by the process of electronically designating, including by touchscreen, or marking with a marking device for tabulation by automatic tabulating equipment or data processing equipment.

(8) “*Early voting area*” means the area designated by the supervisor of elections at an early voting site at which early voting activities occur, including, but not limited to, lines of voters waiting to be processed, the area where voters check in and are processed, and the area where voters cast their ballots.

(9) “*Early voting site*” means those locations specified in s. 101.657 and the building in which early voting occurs.

(26)(24) “Polling room” means the actual room in which ballots are cast on election day and during early voting.

(36) “*Third-party registration organization*” means any person, entity, or organization soliciting or collecting voter registration applications. A third-party voter registration organization does not include:

- (a) A political party;
- (b) A person who seeks only to register to vote or collect voter registration applications from that person's spouse, child, or parent; or
- (c) A person engaged in registering to vote or collecting voter registration applications as an employee or agent of the division, supervisor of elections, Department of Highway Safety and Motor Vehicles, or a voter registration agency.

(42)(39) “Voting system” means a method of casting and processing votes that functions wholly or partly by use of electromechanical or electronic apparatus or by use of ~~marksense paper~~ ballots and includes, but is not limited to, the procedures for casting and processing votes and the programs, operating manuals, ~~supplies tabulating cards~~, printouts, and other software necessary for the system's operation.

Section 3. Section 97.051, Florida Statutes, is amended to read:

97.051 Oath upon registering.—A person registering to vote must subscribe to the following oath: “I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, that I am qualified to register as an elector under the Constitution and laws of the State of Florida, and that ~~all information provided in this application is true I am a citizen of the United States and a legal resident of Florida.~~”

Section 4. Section 97.052, Florida Statutes, is amended to read:

97.052 Uniform statewide voter registration application.—

(1) The department shall prescribe a uniform statewide voter registration application for use in this state.

(a) The uniform statewide voter registration application must be accepted for any one or more of the following purposes:

1. Initial registration.
2. Change of address.
3. Change of party affiliation.
4. Change of name.
5. Replacement of a voter registration identification card.
6. *Signature update.*

(b) The department is responsible for printing the uniform statewide voter registration application and the voter registration application form prescribed by the ~~Federal~~ Election Assistance Commission pursuant to

~~federal law the National Voter Registration Act of 1993.~~ The applications and forms must be distributed, upon request, to the following:

1. Individuals seeking to register to vote.
2. Individuals or groups conducting voter registration programs. A charge of 1 cent per application shall be assessed on requests for 10,000 or more applications.
3. The Department of Highway Safety and Motor Vehicles.
4. Voter registration agencies.
5. Armed forces recruitment offices.
6. Qualifying educational institutions.
7. Supervisors, who must make the applications and forms available in the following manner:
 - a. By distributing the applications and forms in their offices to any individual or group.
 - b. By distributing the applications and forms at other locations designated by each supervisor.
 - c. By mailing the applications and forms to applicants upon the request of the applicant.

(c) The uniform statewide voter registration application may be reproduced by any private individual or group, provided the reproduced application is in the same format as the application prescribed under this section.

(2) The uniform statewide voter registration application must be designed to elicit the following information from the applicant:

- (a) Full name.
- (b) Date of birth.
- (c) Address of legal residence.
- (d) Mailing address, if different.
- (e) County of legal residence.
- ~~(f) Address of property for which the applicant has been granted a homestead exemption, if any.~~
- ~~(f)(g)~~ Race or ethnicity that best describes the applicant:
 1. American Indian or Alaskan Native.
 2. Asian or Pacific Islander.
 3. Black, not Hispanic.
 4. White, not Hispanic.
 5. Hispanic.
- ~~(g)(h)~~ State or country of birth.
- ~~(h)(i)~~ Sex.
- ~~(i)(j)~~ Party affiliation.
- ~~(j)(k)~~ Whether the applicant needs assistance in voting.
- ~~(k)(l)~~ Name and address where last registered.
- ~~(l)(m)~~ Last four digits of the applicant's social security number.
- ~~(m)(n)~~ Florida driver's license number or the identification number from a Florida identification card issued under s. 322.051.
- ~~(n)(o)~~ Telephone number (optional).
- ~~(o)(p)~~ Signature of applicant under penalty for false swearing pursuant to s. 104.011, by which the person subscribes to the oath required by

s. 3, Art. VI of the State Constitution and s. 97.051, and swears or affirms that the information contained in the registration application is true.

~~(p)(q)~~ Whether the application is being used for initial registration, to update a voter registration record, or to request a replacement registration identification card.

~~(q)(r)~~ Whether the applicant is a citizen of the United States by asking the question "Are you a citizen of the United States of America?" and providing boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

~~(r)(s)~~ Whether ~~That~~ the applicant has ~~not~~ been convicted of a felony, and ~~or~~, if convicted, has had his or her civil rights restored by including the statement "I affirm I am not a convicted felon, or if I am, my rights relating to voting have been restored" and providing a box for the applicant to affirm the statement.

~~(s)(t)~~ Whether ~~That~~ the applicant has ~~not~~ been adjudicated mentally incapacitated with respect to voting or, if so adjudicated, has had his or her right to vote restored by including the statement "I affirm I have not been adjudicated mentally incapacitated with respect to voting or, if I have, my competency has been restored" and providing a box for the applicant to check to affirm the statement.

The registration form must be in plain language and designed so that convicted felons whose civil rights have been restored and persons who have been adjudicated mentally incapacitated and have had their voting rights restored are not required to reveal their prior conviction or adjudication.

(3) The uniform statewide voter registration application must also contain:

- (a) The oath required by s. 3, Art. VI of the State Constitution and s. 97.051.
- (b) A statement specifying each eligibility requirement under s. 97.041.
- (c) The penalties provided in s. 104.011 for false swearing in connection with voter registration.
- (d) A statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and may be used only for voter registration purposes.
- (e) A statement that informs the applicant who chooses to register to vote or update a voter registration record that the office at which the applicant submits a voter registration application or updates a voter registration record will remain confidential and may be used only for voter registration purposes.

~~(f) A statement that informs the applicant that any person who has been granted a homestead exemption in this state, and who registers to vote in any precinct other than the one in which the property for which the homestead exemption has been granted, shall have that information forwarded to the property appraiser where such property is located, which may result in the person's homestead exemption being terminated and the person being subject to assessment of back taxes under s. 193.092, unless the homestead granted the exemption is being maintained as the permanent residence of a legal or natural dependent of the owner and the owner resides elsewhere.~~

~~(f)(g)~~ A statement informing ~~an~~ the applicant who has not been issued a Florida driver's license, a Florida identification card, or a social security number that if the application form is submitted by mail and the applicant is registering for the first time in Florida, the applicant will be required to provide identification prior to voting the first time.

(4) A supervisor may produce a voter registration application that has the supervisor's direct mailing address if the department has reviewed the application and determined that it is substantially the same as the uniform statewide voter registration application.

(5) The voter registration application form prescribed by the ~~Federal Election Assistance Commission pursuant to federal law the National Voter Registration Act of 1993~~ or the federal postcard application must

be accepted as an application for registration in this state if the completed application or postcard application contains the information required by the constitution and laws of this state.

Section 5. Section 97.053, Florida Statutes, is amended to read:

97.053 Acceptance of voter registration applications.—

(1) Voter registration applications, changes in registration, and requests for a replacement registration identification card must be accepted in the office of any supervisor, the division, a driver license office, a voter registration agency, or an armed forces recruitment office when hand delivered by the applicant or a third party during the hours that office is open or when mailed.

(2) A ~~completed~~ voter registration application *is complete and that contains the information necessary to establish an applicant's eligibility pursuant to s. 97.041* becomes the official voter registration record of that applicant when *all information necessary to establish the applicant's eligibility pursuant to s. 97.041* is received by the appropriate supervisor. *If the applicant fails to complete his or her voter registration application before the date of book closing for an election, such applicant is not eligible to vote in that election.*

(3) The registration date for a valid initial voter registration application that has been hand delivered is the date when received by a driver license office, a voter registration agency, an armed forces recruitment office, the division, or the office of any supervisor in the state.

(4) The registration date for a valid initial voter registration application that has been mailed to a driver license office, a voter registration agency, an armed forces recruitment office, the division, or the office of any supervisor in the state and bears a clear postmark is the date of that the postmark. If an initial voter registration application that has been mailed does not bear a postmark or if the postmark is unclear, the registration date is the date the registration is received by any supervisor or the division, unless it is received within 5 days after the closing of the books for an election, excluding Saturdays, Sundays, and legal holidays, in which case the registration date is the book-closing date.

(5)(a) A voter registration application is complete if it contains the following information necessary to establish eligibility pursuant to s. 97.041:

1. The applicant's name.
2. The applicant's legal residence address.
3. The applicant's date of birth.
4. ~~A mark in the checkbox affirming An indication~~ that the applicant is a citizen of the United States.
5. The applicant's Florida driver's license number, the identification number from a Florida identification card issued under s. 322.051, or the last four digits of the applicant's social security number.
6. ~~A mark in the checkbox affirming An indication~~ that the applicant has not been convicted of a felony or that, if convicted, has had his or her civil rights restored.
7. ~~A mark in the checkbox affirming An indication~~ that the applicant has not been adjudicated mentally incapacitated with respect to voting or that, if so adjudicated, has had his or her right to vote restored.
8. *The original* signature of the applicant swearing or affirming under the penalty for false swearing pursuant to s. 104.011 that the information contained in the registration application is true and subscribing to the oath required by s. 3, Art. VI of the State Constitution and s. 97.051.

(b) An applicant who fails to designate party affiliation must be registered without party affiliation. The supervisor must notify the voter by mail that the voter has been registered without party affiliation and that the voter may change party affiliation as provided in s. 97.1031.

Section 6. Subsection (1) of section 97.055, Florida Statutes, is amended to read:

97.055 Registration books; when closed for an election.—

(1) The registration books must be closed on the 29th day before each election and must remain closed until after that election. If an election is called and there are fewer than 29 days before that election, the registration books must be closed immediately. When the registration books are closed for an election, *updates to a voter's name, address, and signature pursuant to ss. 98.077 and 101.045 shall be the only changes permitted for purposes of the upcoming election.* Voter registration applications and party changes must be accepted but only for the purpose of subsequent elections. However, party changes received between the book-closing date of the first primary election and the date of the second primary election are not effective until after the second primary election.

Section 7. Section 97.0575, Florida Statutes, is created to read:

97.0575 Third-party voter registrations.—

(1) *Prior to engaging in any voter-registration activities, a third-party voter registration organization shall name a registered agent in the state and submit to the division, in a form adopted by the division, the name of the registered agent and the name of those individuals responsible for the day-to-day operation of the third-party voter registration organization, including, if applicable, the names of the entity's board of directors, president, vice president, managing partner, or such other individuals engaged in similar duties or functions. On or before the 15th day after the end of each calendar quarter, each third-party voter registration organization shall submit to the division a report providing the date and location of any organized voter-registration drives conducted by the organization in the prior calendar quarter.*

(2) *The failure to submit the information required by subsection (1) does not subject the third-party voter registration organization to any civil or criminal penalties for such failure and the failure to submit such information is not a basis for denying such third-party voter registration organization with copies of voter-registration application forms.*

(3) *A third-party voter registration organization that collects voter-registration applications serves as a fiduciary to the applicant, ensuring that any voter-registration application entrusted to the third-party voter registration organization, irrespective of party affiliation, race, ethnicity, or gender shall be promptly delivered to the division or the supervisor of elections. If a voter-registration application collected by any third-party voter registration organization is not delivered to the division or supervisor of elections, the individual collecting the voter-registration application, the registered agent, and those individuals responsible for the day-to-day operation of the third-party voter registration organization, including, if applicable, the entity's board of directors, president, vice president, managing partner, or such other individuals engaged in similar duties or functions, shall be personally and jointly and severally liable for the following fines:*

(a) *A fine in the amount of \$250 for each application received by the division or the supervisor of elections more than 10 days after the applicant delivered the completed voter-registration application to the third-party voter registration organization or any person, entity, or agent acting on its behalf.*

(b) *A fine in the amount of \$500 for each application collected by a third-party voter registration organization or any person, entity, or agent acting on its behalf, prior to book closing for any given election for federal or state office and received by the division or the supervisor of elections after the book closing deadline for such election.*

(c) *A fine in the amount of \$5,000 for each application collected by a third-party voter registration organization or any person, entity, or agent acting on its behalf, which is not submitted to the division or supervisor of elections.*

The fines provided in this subsection shall be reduced by three-fourths in cases in which the third-party voter registration organization has complied with subsection (1).

(4)(a) *The division shall adopt by rule a form to elicit specific information concerning the facts and circumstances from a person who claims to have been registered by a third-party voter registration organization but who does not appear as an active voter on the voter-registration rolls.*

(b) *The division may investigate any violation of this section. Civil fines shall be assessed by the division and enforced through any appropriate legal proceedings.*

(5) *The date on which an applicant signs a voter-registration application is presumed to be the date on which the third-party voter registration organization received or collected the voter-registration application.*

(6) *The civil fines provided in this section are in addition to any applicable criminal penalties.*

(7) *Fines collected pursuant to this section shall be annually appropriated by the Legislature to the department for enforcement of this section and for voter education.*

(8) *The division may adopt rules to administer this section.*

Section 8. Section 97.071, Florida Statutes, is amended to read:

97.071 Registration identification card.—

(1) *The supervisor must furnish a registration identification card must be furnished to all voters registering under the permanent single registration system and must contain:*

- (a) Voter's registration number.
- (b) Date of registration.
- (c) Full name.
- (d) Party affiliation.
- (e) Date of birth.
- (f) Race or ethnicity, if provided by the applicant.
- (g) Sex, if provided by the applicant.
- (h) Address of legal residence.
- (i) Precinct number.
- (j) Name of supervisor.
- (k) Place for voter's signature.
- (l) Other information deemed necessary by the department.

(2) *A voter may receive a replacement of a registration identification card by providing a signed, written request for a replacement card to the supervisor. Upon verification of registration, the supervisor shall issue the voter a duplicate card without charge.*

(3) *In the case of a change of name, address, or party affiliation, the supervisor must issue the voter a new registration identification card. However, a registration identification card indicating a party affiliation change made between the book-closing date for the first primary election and the date of the second primary election may not be issued until after the second primary election.*

Section 9. Subsection (3) of section 98.045, Florida Statutes, is amended to read:

98.045 Administration of voter registration.—

(3) *Notwithstanding the provisions of s. ss. ~~98.095~~ and 98.0977, each supervisor shall maintain for at least 2 years, and make available for public inspection and copying, all records concerning implementation of registration list maintenance programs and activities conducted pursuant to ss. 98.065, 98.075, and 98.0977. The records must include lists of the name and address of each person to whom an address confirmation final notice was sent and information as to whether each such person responded to the mailing, but may not include any information that is confidential or exempt from public records requirements under this code.*

Section 10. Section 98.077, Florida Statutes, is amended to read:

98.077 Update of voter signature.—*The supervisor of elections shall provide to each registered voter of the county the opportunity to update his or her signature on file at the supervisor's office by providing notification of the ability to do so in any correspondence, other than postcard notifications, sent to the voter. The notice shall advise when, where, and*

how to update the signature and shall provide the voter information on how to obtain a form from the supervisor that can be returned to update the signature. In addition, at least once during each general election year, the supervisor shall publish in a newspaper of general circulation or other newspaper in the county deemed appropriate by the supervisor a notice specifying when, where, or how a voter can update his or her signature that is on file or how a voter can obtain a form from the supervisor to do so. All signature updates for use in verifying absentee and provisional ballots must be received by the appropriate supervisor of elections no later than the start of the canvassing of absentee ballots by the canvassing board. The signature on file at the start of the canvass of the absentee ballots is the signature that shall be used in verifying the signature on the absentee and provisional ballot certificates.

Section 11. Section 99.061, Florida Statutes, is amended to read:

99.061 Method of qualifying for nomination or election to federal, state, county, or district office.—

(1) *The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a federal, state, or multicounty district office, other than election to a judicial office as defined in chapter 105 or the office of school board member, shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the Department of State, or qualify by the petition process pursuant to s. 99.095 ~~alternative method~~ with the Department of State, at any time after noon of the 1st day for qualifying, which shall be as follows: the 120th day prior to the first primary, but not later than noon of the 116th day prior to the date of the first primary, for persons seeking to qualify for nomination or election to federal office; and noon of the 50th day prior to the first primary, but not later than noon of the 46th day prior to the date of the first primary, for persons seeking to qualify for nomination or election to a state or multicounty district office.*

(2) *The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a county office, or district or special district office not covered by subsection (1), shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the supervisor of elections of the county, or shall qualify by the petition process pursuant to s. 99.095 ~~alternative method~~ with the supervisor of elections, at any time after noon of the 1st day for qualifying, which shall be the 50th day prior to the first primary or special district election, but not later than noon of the 46th day prior to the date of the first primary or special district election. However, if a special district election is held at the same time as the second primary or general election, qualifying shall be the 50th day prior to the first primary, but not later than noon of the 46th day prior to the date of the first primary. Within 30 days after the closing of qualifying time, the supervisor of elections shall remit to the secretary of the state executive committee of the political party to which the candidate belongs the amount of the filing fee, two-thirds of which shall be used to promote the candidacy of candidates for county offices and the candidacy of members of the Legislature.*

(3)(a) *Each person seeking to qualify for election to office as a write-in candidate shall file his or her qualification papers with the respective qualifying officer at any time after noon of the 1st day for qualifying, but not later than noon of the last day of the qualifying period for the office sought.*

(b) *Any person who is seeking election as a write-in candidate shall not be required to pay a filing fee, election assessment, or party assessment. A write-in candidate shall not be entitled to have his or her name printed on any ballot; however, space for the write-in candidate's name to be written in shall be provided on the general election ballot. No person may qualify as a write-in candidate if the person has also otherwise qualified for nomination or election to such office.*

(4) *At the time of qualifying for office, each candidate for a constitutional office shall file a full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution, and a candidate for any other office, including local elective office, shall file a statement of financial interests pursuant to s. 112.3145.*

(5) *The Department of State shall certify to the supervisor of elections, within 7 days after the closing date for qualifying, the names of*

all duly qualified candidates for nomination or election who have qualified with the Department of State.

(6) Notwithstanding the qualifying period prescribed in this section, if a candidate has submitted the necessary petitions by the required deadline in order to qualify by the *petition process pursuant to s. 99.095 alternative method* as a candidate for nomination or election and the candidate is notified after the 5th day prior to the last day for qualifying that the required number of signatures has been obtained, the candidate is entitled to subscribe to the candidate's oath and file the qualifying papers at any time within 5 days from the date the candidate is notified that the necessary number of signatures has been obtained. Any candidate who qualifies within the time prescribed in this subsection is entitled to have his or her name printed on the ballot.

(7)(a) In order for a candidate to be qualified, the following items must be received by the filing officer by the end of the qualifying period:

1. A properly executed check drawn upon the candidate's campaign account in an amount not less than the fee required by s. 99.092 or, in lieu thereof, as applicable, the copy of the notice of obtaining ballot position pursuant to s. 99.095 ~~or the undue burden oath authorized pursuant to s. 99.0955 or s. 99.096~~. If a candidate's check is returned by the bank for any reason, the filing officer shall immediately notify the candidate and the candidate shall, the end of qualifying notwithstanding, have 48 hours from the time such notification is received, excluding Saturdays, Sundays, and legal holidays, to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph shall disqualify the candidate.

2. The candidate's oath required by s. 99.021, which must contain the name of the candidate as it is to appear on the ballot; the office sought, including the district or group number if applicable; and the signature of the candidate, duly acknowledged.

3. The loyalty oath required by s. 876.05, signed by the candidate and duly acknowledged.

4. If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1)(b).

5. The completed form for the appointment of campaign treasurer and designation of campaign depository, as required by s. 106.021.

6. The full and public disclosure or statement of financial interests required by subsection (4). *A public officer who has filed the full and public disclosure or statement of financial interests with the Commission on Ethics or the supervisor of elections prior to qualifying for office may file a copy of that disclosure at the time of qualifying.*

(b) If the filing officer receives qualifying papers that do not include all items as required by paragraph (a) prior to the last day of qualifying, the filing officer shall make a reasonable effort to notify the candidate of the missing or incomplete items and shall inform the candidate that all required items must be received by the close of qualifying. A candidate's name as it is to appear on the ballot may not be changed after the end of qualifying.

(8) *Notwithstanding the qualifying period prescribed in this section, a qualifying office may accept and hold qualifying papers submitted not earlier than 14 days prior to the beginning of the qualifying period, to be processed and filed during the qualifying period.*

(9)(8) Notwithstanding the qualifying period prescribed by this section, in each year in which the Legislature apportions the state, the qualifying period for persons seeking to qualify for nomination or election to federal office shall be between noon of the 57th day prior to the first primary, but not later than noon of the 53rd day prior to the first primary.

(10)(9) The Department of State may prescribe by rule requirements for filing papers to qualify as a candidate under this section.

Section 12. Section 99.063, Florida Statutes, is amended to read:

99.063 Candidates for Governor and Lieutenant Governor.—

(1) No later than 5 p.m. of the 9th day following the second primary election, each candidate for Governor shall designate a Lieutenant Gov-

ernor as a running mate. Such designation must be made in writing to the Department of State.

(2) No later than 5 p.m. of the 9th day following the second primary election, each designated candidate for Lieutenant Governor shall file with the Department of State:

(a) The candidate's oath required by s. 99.021, which must contain the name of the candidate as it is to appear on the ballot; the office sought; and the signature of the candidate, duly acknowledged.

(b) The loyalty oath required by s. 876.05, signed by the candidate and duly acknowledged.

(c) If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1)(b).

(d) The full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution. *A public officer who has filed the full and public disclosure with the Commission on Ethics prior to qualifying for office may file a copy of that disclosure at the time of qualifying.*

(3) A designated candidate for Lieutenant Governor is not required to pay a separate qualifying fee or obtain signatures on petitions. Ballot position obtained by the candidate for Governor entitles the designated candidate for Lieutenant Governor, upon receipt by the Department of State of the qualifying papers required by subsection (2), to have his or her name placed on the ballot for the joint candidacy.

(4) In order to have the name of the candidate for Lieutenant Governor printed on the first or second primary election ballot, a candidate for Governor participating in the primary must designate the candidate for Lieutenant Governor, and the designated candidate must qualify no later than the end of the qualifying period specified in s. 99.061. If the candidate for Lieutenant Governor has not been designated and has not qualified by the end of the qualifying period specified in s. 99.061, the phrase "Not Yet Designated" must be included in lieu of the candidate's name on primary election ballots and on advance absentee ballots for the general election.

(5) Failure of the Lieutenant Governor candidate to be designated and qualified by the time specified in subsection (2) shall result in forfeiture of ballot position for the candidate for Governor for the general election.

Section 13. Section 99.092, Florida Statutes, is amended to read:

99.092 Qualifying fee of candidate; notification of Department of State.—

(1) Each person seeking to qualify for nomination or election to any office, except a person seeking to qualify by the *petition process alternative method* pursuant to s. 99.095, ~~s. 99.0955, or s. 99.096~~ and except a person seeking to qualify as a write-in candidate, shall pay a qualifying fee, which shall consist of a filing fee and election assessment, to the officer with whom the person qualifies, and any party assessment levied, and shall attach the original or signed duplicate of the receipt for his or her party assessment or pay the same, in accordance with the provisions of s. 103.121, at the time of filing his or her other qualifying papers. The amount of the filing fee is 3 percent of the annual salary of the office. The amount of the election assessment is 1 percent of the annual salary of the office sought. The election assessment shall be deposited into the Elections Commission Trust Fund. The amount of the party assessment is 2 percent of the annual salary. The annual salary of the office for purposes of computing the filing fee, election assessment, and party assessment shall be computed by multiplying 12 times the monthly salary, excluding any special qualification pay, authorized for such office as of July 1 immediately preceding the first day of qualifying. No qualifying fee shall be returned to the candidate unless the candidate withdraws his or her candidacy before the last date to qualify. If a candidate dies prior to an election and has not withdrawn his or her candidacy before the last date to qualify, the candidate's qualifying fee shall be returned to his or her designated beneficiary, and, if the filing fee or any portion thereof has been transferred to the political party of the candidate, the Secretary of State shall direct the party to return that portion to the designated beneficiary of the candidate.

(2) The supervisor of elections shall, immediately after the last day for qualifying, submit to the Department of State a list containing the

names, party affiliations, and addresses of all candidates and the offices for which they qualified.

Section 14. Section 99.095, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 99.095, F.S., for present text.)

99.095 *Petition process in lieu of a qualifying fee and party assessment.*—

(1) A person who seeks to qualify as a candidate for any office and who meets the petition requirements of this section is not required to pay the qualifying fee or party assessment required by this chapter.

(2)(a) A candidate shall obtain the number of signatures of voters in the geographical area represented by the office sought equal to at least 1 percent of the total number of registered voters of that geographical area, as shown by the compilation by the department for the last preceding general election. Signatures may not be obtained until the candidate has filed the appointment of campaign treasurer and designation of campaign depository pursuant to s. 106.021.

(b) The format of the petition shall be prescribed by the division and shall be used by candidates to reproduce petitions for circulation. If the candidate is running for an office that requires a group or district designation, the petition must indicate that designation and if it does not, the signatures are not valid. A separate petition is required for each candidate.

(3) Each petition must be submitted before noon of the 28th day preceding the first day of the qualifying period for the office sought to the supervisor of elections of the county in which such petition was circulated. Each supervisor shall check the signatures on the petitions to verify their status as voters in the county, district, or other geographical area represented by the office sought. No later than the 7th day before the first day of the qualifying period, the supervisor shall certify the number of valid signatures.

(4)(a) Certifications for candidates for federal, state, or multicounty district office shall be submitted to the division. The division shall determine whether the required number of signatures has been obtained and shall notify the candidate.

(b) For candidates for county or district office not covered by paragraph (a), the supervisor shall determine whether the required number of signatures has been obtained and shall notify the candidate.

(5) If the required number of signatures has been obtained, the candidate is eligible to qualify pursuant to s. 99.061.

Section 15. Section 99.0955, Florida Statutes, is amended to read:

99.0955 Candidates with no party affiliation; name on general election ballot.—

(1) Each person seeking to qualify for election as a candidate with no party affiliation shall file his or her ~~qualifying qualification~~ papers and pay the qualifying fee or qualify by the ~~petition process pursuant to s. 99.095 alternative method prescribed in subsection (3)~~ with the officer and during the times and under the circumstances prescribed in s. 99.061. Upon qualifying, the candidate is entitled to have his or her name placed on the general election ballot.

(2) The qualifying fee for candidates with no party affiliation shall consist of a filing fee and an election assessment *as prescribed in s. 99.092*. The amount of the filing fee is 3 percent of the annual salary of the office sought. The amount of the election assessment is 1 percent of the annual salary of the office sought. The election assessment shall be deposited into the Elections Commission Trust Fund. Filing fees paid to the Department of State shall be deposited into the General Revenue Fund of the state. Filing fees paid to the supervisor of elections shall be deposited into the general revenue fund of the county.

(3)(a) A candidate with no party affiliation may, in lieu of paying the qualifying fee, qualify for office by the alternative method prescribed in this subsection. A candidate using this petitioning process shall file an oath with the officer before whom the candidate would qualify for the office stating that he or she intends to qualify by this alternative method. If the person is running for an office that requires a group or district

designation, the candidate must indicate the designation in his or her oath. The oath shall be filed at any time after the first Tuesday after the first Monday in January of the year in which the election is held, but before the 21st day preceding the first day of the qualifying period for the office sought. The Department of State shall prescribe the form to be used in administering and filing the oath. Signatures may not be obtained by a candidate on any petition until the candidate has filed the oath required in this subsection. Upon receipt of the written oath from a candidate, the qualifying officer shall provide the candidate with petition forms in sufficient numbers to facilitate the gathering of signatures. If the candidate is running for an office that requires a group or district designation, the petition must indicate that designation or the signatures obtained on the petition will not be counted.

(b) A candidate shall obtain the signatures of a number of qualified electors in the geographical entity represented by the office sought equal to 1 percent of the registered electors of the geographical entity represented by the office sought, as shown by the compilation by the Department of State for the preceding general election.

(c) Each petition must be submitted before noon of the 21st day preceding the first day of the qualifying period for the office sought, to the supervisor of elections of the county for which such petition was circulated. Each supervisor to whom a petition is submitted shall check the signatures on the petition to verify their status as electors in the county, district, or other geographical entity represented by the office sought. Before the first day for qualifying, the supervisor shall certify the number shown as registered electors.

(d)1. Certifications for candidates for federal, state, or multicounty district office shall be submitted to the Department of State. The Department of State shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate.

2. For candidates for county or district office not covered by subparagraph 1., the supervisor of elections shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate.

(e) If the required number of signatures has been obtained, the candidate shall, during the time prescribed for qualifying for office, submit a copy of the notice received under paragraph (d) and file his or her qualifying papers and the oath prescribed by s. 99.021 with the qualifying officer.

Section 16. Section 99.096, Florida Statutes, is amended to read:

99.096 Minor *political* party candidates; names on ballot.—

(1) ~~The executive committee of a minor political party shall~~, No later than noon of the third day prior to the first day of the qualifying period prescribed for federal candidates, *the executive committee of a minor political party shall submit to the Department of State a list of federal candidates nominated by the party to be on the general election ballot.* and No later than noon of the third day prior to the first day of the qualifying period for state candidates, *the executive committee of a minor political party shall submit to the filing officer for each of the candidates submit to the Department of State the official list of the state, multicounty, and county respective candidates nominated by that party to be on the ballot in the general election. The Department of State shall notify the appropriate supervisors of elections of the name of each minor party candidate eligible to qualify before such supervisor. The official list of nominated candidates may not be changed by the party after having been filed with the filing officers Department of State, except that candidates who have qualified may withdraw from the ballot pursuant to the provisions of this code, and vacancies in nominations may be filled pursuant to s. 100.111.*

(2) Each person seeking to qualify for election as a candidate of a minor *political* party shall file his or her ~~qualifying qualification~~ papers with, and pay the qualifying fee and, if one has been levied, the party assessment, or qualify by the *petition process pursuant to s. 99.095 alternative method prescribed in subsection (3)*, with the officer and at the times and under the circumstances provided in s. 99.061.

(3)(a) A minor party candidate may, in lieu of paying the qualifying fee and party assessment, qualify for office by the alternative method prescribed in this subsection. A candidate using this petitioning process

shall file an oath with the officer before whom the candidate would qualify for the office stating that he or she intends to qualify by this alternative method. If the person is running for an office that requires a group or district designation, the candidate must indicate the designation in his or her oath. The oath must be filed at any time after the first Tuesday after the first Monday in January of the year in which the election is held, but before the 21st day preceding the first day of the qualifying period for the office sought. The Department of State shall prescribe the form to be used in administering and filing the oath. Signatures may not be obtained by a candidate on any petition until the candidate has filed the oath required in this section. Upon receipt of the written oath from a candidate, the qualifying officer shall provide the candidate with petition forms in sufficient numbers to facilitate the gathering of signatures. If the candidate is running for an office that requires a group or district designation, the petition must indicate that designation or the signatures on such petition will not be counted.

(b) A candidate shall obtain the signatures of a number of qualified electors in the geographical entity represented by the office sought equal to 1 percent of the registered electors in the geographical entity represented by the office sought, as shown by the compilation by the Department of State for the last preceding general election.

(c) Each petition shall be submitted prior to noon of the 21st day preceding the first day of the qualifying period for the office sought to the supervisor of elections of the county for which the petition was circulated. Each supervisor to whom a petition is submitted shall check the signatures on the petition to verify their status as electors in the county, district, or other geographical entity represented by the office sought. Before the first day for qualifying, the supervisor shall certify the number shown as registered electors.

(d) Certifications for candidates for federal, state, or multicounty district office shall be submitted to the Department of State. The Department of State shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate.

2.—For candidates for county or district office not covered by subparagraph 1., the supervisor of elections shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate.

(e) If the required number of signatures has been obtained, the candidate shall, during the prescribed time for qualifying for office, submit a copy of the notice received under paragraph (d) and file his or her qualifying papers and the oath prescribed by s. 99.021 with the qualifying officer.

(4) A minor party candidate whose name has been submitted pursuant to subsection (1) and who has qualified for office is entitled to have his or her name placed on the general election ballot.

Section 17. Subsection (1) of section 99.09651, Florida Statutes, is amended to read:

99.09651 Signature requirements for ballot position in year of apportionment.—

(1) In a year of apportionment, any candidate for representative to Congress, state Senate, or state House of Representatives seeking ballot position by the *petition process* alternative method prescribed in s. 99.095, s. 99.0955, or s. 99.096 shall obtain at least the number of signatures equal to one-third of 1 percent of the ideal population for the district of the office being sought.

Section 18. Subsection (1) of section 100.011, Florida Statutes, is amended to read:

100.011 Opening and closing of polls, all elections; expenses.—

(1) The polls shall be open at the voting places at 7:00 a.m., on the day of the election, and shall be kept open until 7:00 p.m., of the same day, and the time shall be regulated by the customary time in standard use in the county seat of the locality. The inspectors shall make public proclamation of the opening and closing of the polls. During the election and canvass of the votes, the ballot box shall not be concealed. *Any elector who is in line at the time of the official closing of the polls shall be allowed to cast a vote in the election.*

Section 19. Section 100.101, Florida Statutes, is amended to read:

100.101 Special elections and special primary elections.—Except as provided in s. 100.111(2), a special election or special primary election shall be held in the following cases:

(1) If no person has been elected at a general election to fill an office which was required to be filled by election at such general election.

(2) If a vacancy occurs in the office of state senator or member of the state house of representatives.

(3) If it is necessary to elect presidential electors, by reason of the offices of President and Vice President both having become vacant.

(4) If a vacancy occurs in the office of member from Florida of the House of Representatives of Congress.

~~(5) If a vacancy occurs in nomination.~~

Section 20. Section 100.111, Florida Statutes, is amended to read:

100.111 Filling vacancy.—

(1)(a) If any vacancy occurs in any office which is required to be filled pursuant to s. 1(f), Art. IV of the State Constitution and the remainder of the term of such office is 28 months or longer, then at the next general election a person shall be elected to fill the unexpired portion of such term, commencing on the first Tuesday after the first Monday following such general election.

(b) If such a vacancy occurs prior to the first day set by law for qualifying for election to office at such general election, any person seeking nomination or election to the unexpired portion of the term shall qualify within the time prescribed by law for qualifying for other offices to be filled by election at such general election.

(c) If such a vacancy occurs prior to the first primary but on or after the first day set by law for qualifying, the Secretary of State shall set dates for qualifying for the unexpired portion of the term of such office. Any person seeking nomination or election to the unexpired portion of the term shall qualify within the time set by the Secretary of State. If time does not permit party nominations to be made in conjunction with the first and second primary elections, the Governor may call a special primary election, and, if necessary, a second special primary election, to select party nominees for the unexpired portion of such term.

(2)(a) If, in any state or county office required to be filled by election, a vacancy occurs during an election year by reason of the incumbent having qualified as a candidate for federal office pursuant to s. 99.061, no special election is required. Any person seeking nomination or election to the office so vacated shall qualify within the time prescribed by s. 99.061 for qualifying for state or county offices to be filled by election.

(b) If such a vacancy occurs in an election year other than the one immediately preceding expiration of the present term, the Secretary of State shall notify the supervisor of elections in each county served by the office that a vacancy has been created. Such notice shall be provided to the supervisor of elections not later than the close of the first day set for qualifying for state or county office. The supervisor shall provide public notice of the vacancy in any manner the Secretary of State deems appropriate.

(3) Whenever there is a vacancy for which a special election is required pursuant to s. 100.101 ~~s. 100.101(1)-(4)~~, the Governor, after consultation with the Secretary of State, shall fix the date of a special first primary election, a special second primary election, and a special election. Nominees of political parties other than minor political parties shall be chosen under the primary laws of this state in the special primary elections to become candidates in the special election. Prior to setting the special election dates, the Governor shall consider any upcoming elections in the jurisdiction where the special election will be held. The dates fixed by the Governor shall be specific days certain and shall not be established by the happening of a condition or stated in the alternative. The dates fixed shall provide a minimum of 2 weeks between each election. In the event a vacancy occurs in the office of state senator or member of the House of Representatives when the Legislature is in regular legislative session, the minimum times prescribed by this subsection may be waived upon concurrence of the Governor, the Speaker

of the House of Representatives, and the President of the Senate. If a vacancy occurs in the office of state senator and no session of the Legislature is scheduled to be held prior to the next general election, the Governor may fix the dates for any special primary and for the special election to coincide with the dates of the first and second primary and general election. If a vacancy in office occurs in any district in the state Senate or House of Representatives or in any congressional district, and no session of the Legislature, or session of Congress if the vacancy is in a congressional district, is scheduled to be held during the unexpired portion of the term, the Governor is not required to call a special election to fill such vacancy.

(a) The dates for candidates to qualify in such special election or special primary election shall be fixed by the Department of State, and candidates shall qualify not later than noon of the last day so fixed. The dates fixed for qualifying shall allow a minimum of 14 days between the last day of qualifying and the special first primary election.

(b) The filing of campaign expense statements by candidates in such special elections or special primaries and by committees making contributions or expenditures to influence the results of such special primaries or special elections shall be not later than such dates as shall be fixed by the Department of State, and in fixing such dates the Department of State shall take into consideration and be governed by the practical time limitations.

(c) The dates for a candidate to qualify by the *petition process pursuant to s. 99.095 alternative method* in such special primary or special election shall be fixed by the Department of State. In fixing such dates the Department of State shall take into consideration and be governed by the practical time limitations. Any candidate seeking to qualify by the *petition process alternative method* in a special primary election shall obtain 25 percent of the signatures required by s. 99.095, ~~s. 99.0955, or s. 99.096, as applicable.~~

(d) The qualifying fees and party assessments of such candidates as may qualify shall be the same as collected for the same office at the last previous primary for that office. The party assessment shall be paid to the appropriate executive committee of the political party to which the candidate belongs.

(e) Each county canvassing board shall make as speedy a return of the result of such special elections and primaries as time will permit, and the Elections Canvassing Commission likewise shall make as speedy a canvass and declaration of the nominees as time will permit.

(4)(a) In the event that death, resignation, withdrawal, removal, or any other cause or event should cause a party to have a vacancy in nomination which leaves no candidate for an office from such party, ~~the Governor shall, after conferring with the Secretary of State, call a special primary election and, if necessary, a second special primary election to select for such office a nominee of such political party. The dates on which candidates may qualify for such special primary election shall be fixed by the Department of State, and the candidates shall qualify no later than noon of the last day so fixed. The filing of campaign expense statements by candidates in special primaries shall not be later than such dates as shall be fixed by the Department of State. In fixing such dates, the Department of State shall take into consideration and be governed by the practical time limitations. The qualifying fees and party assessment of such candidates as may qualify shall be the same as collected for the same office at the last previous primary for that office. Each county canvassing board shall make as speedy a return of the results of such primaries as time will permit, and the Elections Canvassing Commission shall likewise make as speedy a canvass and declaration of the nominees as time will permit.~~

~~(b) If the vacancy in nomination occurs later than September 15, or if the vacancy in nomination occurs with respect to a candidate of a minor political party which has obtained a position on the ballot, no special primary election shall be held and the Department of State shall notify the chair of the appropriate state, district, or county political party executive committee of such party; and, within 5 7 days, the chair shall call a meeting of his or her executive committee to consider designation of a nominee to fill the vacancy. The name of any person so designated shall be submitted to the Department of State within 7 14 days after of notice to the chair in order that the person designated may have his or her name printed or otherwise placed on the ballot of the ensuing general election, but in no event shall the supervisor of elections be required~~

~~to place on a ballot a name submitted less than 21 days prior to the election. If the name of the new nominee is submitted after the certification of results of the preceding primary election, however, the ballots shall not be changed and vacancy occurs less than 21 days prior to the election, the person designated by the political party will replace the former party nominee even though the former party nominee's name will appear on the ballot. Any ballots cast for the former party nominee will be counted for the person designated by the political party to replace the former party nominee. If there is no opposition to the party nominee, the person designated by the political party to replace the former party nominee will be elected to office at the general election. For purposes of this paragraph, the term "district political party executive committee" means the members of the state executive committee of a political party from those counties comprising the area involving a district office.~~

~~(b)(e) When, under the circumstances set forth in the preceding paragraph, vacancies in nomination are required to be filled by committee nominations, such vacancies shall be filled by party rule. In any instance in which a nominee is selected by a committee to fill a vacancy in nomination, such nominee shall pay the same filing fee and take the same oath as the nominee would have taken had he or she regularly qualified for election to such office.~~

~~(c)(d) Any person who, at the close of qualifying as prescribed in ss. 99.061 and 105.031, was qualified for nomination or election to or retention in a public office to be filled at the ensuing general election is prohibited from qualifying as a candidate to fill a vacancy in nomination for any other office to be filled at that general election, even if such person has withdrawn or been eliminated as a candidate for the original office sought. However, this paragraph does not apply to a candidate for the office of Lieutenant Governor who applies to fill a vacancy in nomination for the office of Governor on the same ticket or to a person who has withdrawn or been eliminated as a candidate and who is subsequently designated as a candidate for Lieutenant Governor under s. 99.063.~~

(5) In the event of unforeseeable circumstances not contemplated in these general election laws concerning the calling and holding of special primary elections and special elections resulting from court order or other unpredictable circumstances, the Department of State shall have the authority to provide for the conduct of orderly elections.

~~(6) In the event that a vacancy occurs which leaves less than 4 weeks for a candidate seeking to qualify by the alternative method to gather signatures for ballot position, the number of signatures required for ballot placement shall be 25 percent of the number of signatures required by s. 99.095, s. 99.0955, or s. 99.096, whichever is applicable.~~

Section 21. Section 100.141, Florida Statutes, is amended to read:

100.141 Notice of special election to fill any vacancy in office ~~or nomination.~~—

(1) Whenever a special election is required to fill any vacancy in office ~~or nomination~~, the Governor, after consultation with the Secretary of State, shall issue an order declaring on what day the election shall be held and deliver the order to the Department of State.

(2) The Department of State shall prepare a notice stating what offices ~~and vacancies~~ are to be filled in the special election, the date set for each special primary election and the special election, the dates fixed for qualifying for office, the dates fixed for qualifying by the *petition process pursuant to s. 99.095 alternative method*, and the dates fixed for filing campaign expense statements.

(3) The department shall deliver a copy of such notice to the supervisor of elections of each county in which the special election is to be held. The supervisor shall have the notice published two times in a newspaper of general circulation in the county at least 10 days prior to the first day set for qualifying for office. If such a newspaper is not published within the period set forth, the supervisor shall post at least five copies of the notice in conspicuous places in the county not less than 10 days prior to the first date set for qualifying.

Section 22. Subsection (2) of section 101.031, Florida Statutes, is amended to read:

101.031 Instructions for electors.—

(2) The supervisor of elections in each county shall have posted at each polling place in the county the Voter's Bill of Rights and Responsibilities in the following form:

VOTER'S BILL OF RIGHTS

Each registered voter in this state has the right to:

- 1. Vote and have his or her vote accurately counted.
2. Cast a vote if he or she is in line at the official closing of the polls in that county.
3. Ask for and receive assistance in voting.
4. Receive up to two replacement ballots if he or she makes a mistake prior to the ballot being cast.
5. An explanation if his or her registration or identity is in question.
6. If his or her registration or identity is in question, cast a provisional ballot.
7. Prove his or her identity by signing an affidavit if election officials doubt the voter's identity.
7.8. Written instructions to use when voting, and, upon request, oral instructions in voting from elections officers.
8.9. Vote free from coercion or intimidation by elections officers or any other person.
9.10. Vote on a voting system that is in working condition and that will allow votes to be accurately cast.

VOTER RESPONSIBILITIES

Each registered voter in this state should:

- 1. Familiarize himself or herself with the candidates and issues.
2. Maintain with the office of the supervisor of elections a current address.
3. Know the location of his or her polling place and its hours of operation.
4. Bring proper identification to the polling station.
5. Familiarize himself or herself with the operation of the voting equipment in his or her precinct.
6. Treat precinct workers with courtesy.
7. Respect the privacy of other voters.
8. Report any problems or violations of election laws to the supervisor of elections.
9. Ask questions, if needed.
10. Make sure that his or her completed ballot is correct before leaving the polling station.

NOTE TO VOTER: Failure to perform any of these responsibilities does not prohibit a voter from voting.

Section 23. Section 101.043, Florida Statutes, is amended to read:

101.043 Identification required at polls.—

(1) The precinct register, as prescribed in s. 98.461, shall be used at the polls in lieu of the registration books for the purpose of identifying the elector at the polls prior to allowing him or her to vote. The clerk or inspector shall require each elector, upon entering the polling place, to present a current and valid picture identification as provided in s. 97.0535(3)(a). If the picture identification does not contain the signature of the voter, an additional identification that provides the voter's signature shall be required. The elector shall sign his or her name in the space provided, and the clerk or inspector shall compare the signature with that on the identification provided by the elector and enter his or her initials in the space provided and allow the elector to vote if the clerk or inspector is satisfied as to the identity of the elector.

(2) Except as provided in subsection (3), if the elector fails to furnish the required identification, or if the clerk or inspector is in doubt as to the identity of the elector, such clerk or inspector shall follow the procedure prescribed in s. 101.49.

(2)(3) If the elector who fails to furnish the required identification is a first-time voter who registered by mail and has not provided the required identification to the supervisor of elections prior to election day, the elector shall be allowed to vote a provisional ballot. The canvassing board shall determine the validity of the ballot pursuant to s. 101.048(2).

Section 24. Section 101.048, Florida Statutes, is amended to read:

101.048 Provisional ballots.—

(1) At all elections, a voter claiming to be properly registered in the county and eligible to vote at the precinct in the election, but whose eligibility cannot be determined, a person whom an election official asserts is not eligible, and other persons specified in the code shall be entitled to vote a provisional ballot. Once voted, the provisional ballot shall be placed in a secrecy envelope and thereafter sealed in a provisional ballot envelope. The provisional ballot shall be deposited in a ballot box. All provisional ballots shall remain sealed in their envelopes for return to the supervisor of elections. The department shall prescribe the form of the provisional ballot envelope. A person casting a provisional ballot shall have the right to present written evidence supporting his or her eligibility to vote to the supervisor of elections by not later than 5 p.m. on the third day following the election.

(2)(a) The county canvassing board shall examine each Provisional Ballot Voter's Certificate and Affirmation envelope to determine if the person voting that ballot was entitled to vote at the precinct where the person cast a vote in the election and that the person had not already cast a ballot in the election. In determining whether a person casting a provisional ballot is entitled to vote, the county canvassing board shall review the information provided in the Voter's Certificate and Affirmation, written evidence provided by the person pursuant to subsection (1), any other evidence presented by the supervisor of elections, and, in the case of a challenge, any evidence presented by the challenger. A ballot of a person casting a provisional ballot shall be counted unless the canvassing board determines by a preponderance of the evidence that the person was not entitled to vote.

(b)1. If it is determined that the person was registered and entitled to vote at the precinct where the person cast a vote in the election, the canvassing board shall compare the signature on the Provisional Ballot Voter's Certificate and Affirmation envelope with the signature on the voter's registration and, if it matches, shall count the ballot.

2. If it is determined that the person voting the provisional ballot was not registered or entitled to vote at the precinct where the person cast a vote in the election, the provisional ballot shall not be counted and the ballot shall remain in the envelope containing the Provisional Ballot Voter's Certificate and Affirmation and the envelope shall be marked "Rejected as Illegal."

(3) The Provisional Ballot Voter's Certificate and Affirmation shall be in substantially the following form:

STATE OF FLORIDA
COUNTY OF

I do solemnly swear (or affirm) that my name is ; that my date of birth is ; that I am registered and qualified to vote and at the time I registered I resided at , in the municipality of , in County, Florida; that I am registered in the Party; that I am a qualified voter of the county; and that I have not voted in this election. I understand that if I commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to 5 years.

(Signature of Voter)
(Current Residence Address)
(Current Mailing Address)
(City, State, Zip Code)
(Driver's License Number or Last Four Digits of Social Security Number)

Sworn to and subscribed before me this day of , (year)
(Election Official)

Precinct # Ballot Style/Party Issued:

(4) Notwithstanding the requirements of subsections (1), (2), and (3) In counties where the voting system does not utilize a paper ballot, the

supervisor of elections may, and for persons with disabilities shall, provide the appropriate provisional ballot to the voter by electronic means that meet the requirements of s. 101.56062, as provided for by the certified voting system. Each person casting a provisional ballot by electronic means shall, prior to casting his or her ballot, complete the Provisional Ballot Voter's Certificate and Affirmation as provided in subsection (3).

(5) Each person casting a provisional ballot shall be given written instructions regarding the person's right to provide the supervisor of elections with written evidence of his or her eligibility to vote and regarding the free access system established pursuant to subsection (6). The instructions shall contain information on how to access the system and the information the voter will need to provide to obtain information on his or her particular ballot. The instructions shall also include the following statement: "If this is a primary election, you should contact the supervisor of elections' office immediately to confirm that you are registered and can vote in the general election."

(6) Each supervisor of elections shall establish a free access system that allows each person who casts a provisional ballot to determine whether his or her provisional ballot was counted in the final canvass of votes and, if not, the reasons why. Information regarding provisional ballots shall be available no later than 30 days following the election. The system established must restrict information regarding an individual ballot to the person who cast the ballot.

Section 25. Section 101.049, Florida Statutes, is amended to read:

101.049 Provisional ballots; special circumstances.—

(1) Any person who votes in an election after the regular poll-closing time pursuant to a court or other order extending the statutory polling hours must vote a provisional ballot. Once voted, the provisional ballot shall be placed in a secrecy envelope and thereafter sealed in a provisional ballot envelope. The election official witnessing the voter's subscription and affirmation on the Provisional Ballot Voter's Certificate shall indicate whether or not the voter met all requirements to vote a regular ballot at the polls. All such provisional ballots shall remain sealed in their envelopes and be transmitted to the supervisor of elections.

(2) Separate and apart from all other ballots, the county canvassing board shall count all late-voted provisional ballots that the canvassing board determines to be valid.

(3) The supervisor shall ensure that late-voted provisional ballots are not commingled with other ballots during the canvassing process or at any other time they are statutorily required to be in the supervisor's possession.

(4) This section shall not apply to voters in line at the poll-closing time provided in s. 100.011 who cast their ballots subsequent to that time.

(5) As an alternative, provisional ballots cast pursuant to this section may, and for persons with disabilities shall, be cast in accordance with the provisions of s. 101.048(4).

Section 26. Effective July 1, 2005, section 101.051, Florida Statutes, as amended by section 10 of chapter 2002-281, Laws of Florida, is amended to read:

101.051 Electors seeking assistance in casting ballots; oath to be executed; forms to be furnished.—

(1) Any elector applying to vote in any election who requires assistance to vote by reason of blindness, disability, or inability to read or write may request the assistance of two election officials or some other person of the elector's own choice, other than the elector's employer, an agent of the employer, or an officer or agent of his or her union, to assist the elector in casting his or her vote. Any such elector, before retiring to the voting booth, may have one of such persons read over to him or her, without suggestion or interference, the titles of the offices to be filled and the candidates therefor and the issues on the ballot. After the elector requests the aid of the two election officials or the person of the elector's choice, they shall retire to the voting booth for the purpose of casting the elector's vote according to the elector's choice.

(2) It is unlawful for any person to be in the voting booth with any elector except as provided in subsection (1). A person at a polling place

or early voting site, or within 100 feet of the entrance of a polling place or early voting site, may not solicit any elector in an effort to provide assistance to vote pursuant to subsection (1). Any person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any elector applying to cast an absentee ballot in the office of the supervisor, in any election, who requires assistance to vote by reason of blindness, disability, or inability to read or write may request the assistance of some person of his or her own choice, other than the elector's employer, an agent of the employer, or an officer or agent of his or her union, in casting his or her absentee ballot.

(4) If an elector needs assistance in voting pursuant to the provisions of this section, the clerk or one of the inspectors shall require the elector requesting assistance in voting to take the following oath:

DECLARATION TO SECURE ASSISTANCE

State of Florida
County of
Date
Precinct

I, (Print name), swear or affirm that I am a registered elector and request assistance from (Print names) in voting at the (name of election) held on (date of election). (Signature of assistor). Sworn and subscribed to before me this day of, (year). (Signature of Official Administering Oath)

(5) If an elector needing assistance requests that a person other than an election official provide him or her with assistance in voting, the clerk or one of the inspectors shall require the person providing assistance to take the following oath:

DECLARATION TO PROVIDE ASSISTANCE

State of Florida
County of
Date
Precinct

I, (Print name), have been requested by (print name of elector needing assistance) to provide him or her with assistance to vote. I swear or affirm that I am not the employer, an agent of the employer, or an officer or agent of the union of the voter and that I have not solicited this voter at the polling place or early voting site or within 100 feet of such locations in an effort to provide assistance. (Signature of assistor). Sworn and subscribed to before me this day of, (year). (Signature of Official Administering Oath)

(6)(5) The supervisor of elections shall deliver a sufficient number of these forms to each precinct, along with other election paraphernalia.

Section 27. Section 101.111, Florida Statutes, is amended to read:

101.111 Person desiring to vote may be challenged; challenger to execute oath; oath of person challenged; determination of challenge.—

(1) When the right to vote of any person who desires to vote is challenged by any elector or poll watcher, the challenge shall be reduced to writing with an oath as provided in this section, giving reasons for the challenge, which shall be delivered to the clerk or inspector. Any elector or poll watcher challenging the right of a person to vote shall execute the oath set forth below:

OATH OF PERSON ENTERING CHALLENGE

State of Florida
County of

I do solemnly swear that my name is ; that I am a member of the party; that I am a registered voter or pollwatcher ~~years~~ years old; that my residence address is , in the municipality of ; and that I have reason to believe that . . . is attempting to vote illegally and the reasons for my belief are set forth herein to wit:

(Signature of person challenging voter)
Sworn and subscribed to before me this day of, (year). (Clerk of election)

(2) ~~Before a person who is challenged is permitted to vote, the challenged person's right to vote shall be determined in accordance with the provisions of subsection (3). The clerk or inspector shall immediately deliver to the challenged person a copy of the oath of the person entering the challenge and the challenged voter shall be allowed to cast a provisional ballot. shall request the challenged person to execute the following oath:~~

OATH OF PERSON CHALLENGED

State of Florida
County of

I do solemnly swear that my name is ; that I am a member of the party; that my date of birth is ; that my residence address is , in the municipality of , in this the precinct of county; that I personally made application for registration and signed my name and that I am a qualified voter in this election.
...(Signature of person)...

Sworn and subscribed to before me this day of , (year)
...(Clerk of election or Inspector)...

Any inspector or clerk of election may administer the oath.

(3) *Any elector or poll watcher may challenge the right of any voter to vote not sooner than 30 days before an election by filing a completed copy of the oath contained in subsection (1) to the supervisor of election's office. The challenged voter shall be permitted to cast a provisional ballot.*

(4) *Any elector or poll watcher filing a frivolous challenge of any person's right to vote commits a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; however, electors or poll watchers shall not be subject to liability for any action taken in good faith and in furtherance of any activity or duty permitted of such electors or poll watchers by law. Each instance where any elector or poll watcher files a frivolous challenge of any person's right to vote constitutes a separate offense.*

~~(a) The clerk and inspectors shall compare the information in the challenged person's oath with that entered on the precinct register and shall take any other evidence that may be offered. The clerk and inspectors shall then decide by a majority vote whether the challenged person may vote a regular ballot.~~

~~(b) If the challenged person refuses to complete the oath or if a majority of the clerk and inspectors doubt the eligibility of the person to vote, the challenged person shall be allowed to vote a provisional ballot. The oath of the person entering the challenge and the oath of the person challenged shall be attached to the provisional ballot for transmittal to the canvassing board.~~

Section 28. Section 101.131, Florida Statutes, is amended to read:

101.131 Watchers at polls.—

(1) Each political party and each candidate may have one watcher in each polling room or early voting area at any one time during the election. A political committee formed for the specific purpose of expressly advocating the passage or defeat of an issue on the ballot may have one watcher for each polling room or early voting area at any one time during the election. No watcher shall be permitted to come closer to the officials' table or the voting booths than is reasonably necessary to properly perform his or her functions, but each shall be allowed within the polling room or early voting area to watch and observe the conduct of electors and officials. The poll watchers shall furnish their own materials and necessities and shall not obstruct the orderly conduct of any election. The poll watchers shall pose any questions regarding polling place procedures directly to the clerk for resolution. They may not interact with voters. Each poll watcher shall be a qualified and registered elector of the county in which he or she serves.

(2) Each party, each political committee, and each candidate requesting to have poll watchers shall designate, in writing, poll watchers for each precinct prior to noon of the second Tuesday preceding the election poll watchers for each polling room on election day. Designations of poll watchers for early voting areas shall be submitted in writing to the supervisor of elections at least 14 days before early voting begins. The poll watchers for each polling room precinct shall be approved by the supervisor of elections on or before the Tuesday before the election. Poll watchers for early voting areas shall be approved by the supervisor of elections

no later than 7 days before early voting begins. The supervisor shall furnish to each election board precinct a list of the poll watchers designated and approved for such polling room or early voting area precinct.

(3) No candidate or sheriff, deputy sheriff, police officer, or other law enforcement officer may be designated as a poll watcher.

Section 29. Subsection (1) of section 101.151, Florida Statutes, is amended to read:

101.151 Specifications for ballots.—

(1) *Marksense Paper* ballots shall be printed on paper of such thickness that the printing cannot be distinguished from the back and shall meet the specifications of the voting system that will be used to tabulate the ballots.

Section 30. Section 101.171, Florida Statutes, is amended to read:

101.171 Copy of constitutional amendment to be available at voting locations posted.—Whenever any amendment to the State Constitution is to be voted upon at any election, the Department of State shall have printed, and shall furnish to each supervisor of elections, a sufficient number of copies of the amendment either in poster or booklet form, and the supervisor shall have a copy thereof conspicuously posted or available at each polling room or early voting area precinct upon the day of election.

Section 31. Section 101.294, Florida Statutes, is amended to read:

101.294 Purchase and sale of voting equipment.—

(1) The Division of Elections of the Department of State shall adopt uniform rules for the purchase, use, and sale of voting equipment in the state. No governing body shall purchase or cause to be purchased any voting equipment unless such equipment has been certified for use in this state by the Department of State.

(2) Any governing body contemplating the purchase or sale of voting equipment shall notify the Division of Elections of such considerations. The division shall attempt to coordinate the sale of excess or outmoded equipment by one county with purchases of necessary equipment by other counties.

(3) The division shall inform the governing bodies of the various counties of the state of the availability of new or used voting equipment and of sources available for obtaining such equipment.

(4) A vendor of voting equipment may not provide an uncertified voting system, voting system component, or voting system upgrade to a local governing body or supervisor of elections in this state.

(5) Before or in conjunction with providing a voting system, voting system component, or voting system upgrade, the vendor shall provide the local governing body or supervisor of elections with a sworn certification that the voting system, voting system component, or voting system upgrade being provided has been certified by the Division of Elections.

Section 32. Section 101.295, Florida Statutes, is amended to read:

101.295 Penalties for violation.—

(1) Any member of a governing body which purchases or sells voting equipment in violation of the provisions of ss. 101.292-101.295, which member knowingly votes to purchase or sell voting equipment in violation of the provisions of ss. 101.292-101.295, is guilty of a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083, and shall be subject to suspension from office on the grounds of malfeasance.

(2) Any vendor, chief executive officer, or vendor representative of voting equipment who provides a voting system, voting system component, or voting system upgrade in violation of this chapter commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 33. Section 101.49, Florida Statutes, is amended to read:

101.49 Procedure of election officers where signatures differ.—

(1) Whenever any clerk or inspector, upon a just comparison of the signatures, doubts that the signature *on the identification presented by the of any elector who presents himself or herself at the polls to vote* is the same as the signature of the elector affixed *on the precinct register or early voting certificate in the registration book*, the clerk or inspector shall deliver to the person an affidavit which shall be in substantially the following form:

STATE OF FLORIDA,
COUNTY OF

I do solemnly swear (or affirm) that my name is ; that I am years old; that I was born in the State of ; that I am registered to vote, ~~and at the time I registered I resided on Street, in the municipality of , County of , State of Florida;~~ that I am a qualified voter of the county and state aforesaid and have not voted in this election.

(Signature of voter)

Sworn to and subscribed before me this day of , A. D. (year) .

(Clerk or inspector of election)

Precinct No.

County of

(2) The person shall fill out, in his or her own handwriting or with assistance from a member of the election board, the form and make an affidavit to the facts stated in the filled-in form; such affidavit shall then be sworn to and subscribed before one of the inspectors or clerks of the election who is authorized to administer the oath. Whenever the affidavit is made and filed with the clerk or inspector, the person shall then be admitted to cast his or her vote, but if the person fails or refuses to make out or file such affidavit *and asserts his or her eligibility*, then he or she shall *be entitled to vote a provisional ballot not be permitted to vote*.

Section 34. Effective July 1, 2005, subsection (1) of section 101.51, Florida Statutes, as amended by section 11 of chapter 2002-281, Laws of Florida, is amended to read:

101.51 Electors to occupy booth alone.—

(1) When the elector presents himself or herself to vote, the election official shall ascertain whether the elector's name is upon the register of electors, and, if the elector's name appears and no challenge interposes, or, if interposed, be not sustained, one of the election officials stationed at the entrance shall announce the name of the elector and permit him or her to enter the booth or compartment to cast his or her vote, allowing only one elector at a time to pass through to vote. An elector, while casting his or her ballot, may not occupy a booth or compartment already occupied or speak with anyone, except as provided by s. 101.051, ~~while in the polling place~~.

Section 35. Subsection (4) of section 101.5606, Florida Statutes, is amended to read:

101.5606 Requirements for approval of systems.—No electronic or electromechanical voting system shall be approved by the Department of State unless it is so constructed that:

(4) For systems using *marksense paper* ballots, it accepts a rejected ballot pursuant to subsection (3) if a voter chooses to cast the ballot, but records no vote for any office that has been overvoted or undervoted.

Section 36. Subsections (2) and (3) of section 101.5608, Florida Statutes, are amended to read:

101.5608 Voting by electronic or electromechanical method; procedures.—

(2) When an electronic or electromechanical voting system utilizes a ballot card or *marksense paper* ballot, the following procedures shall be followed:

(a) After receiving a ballot from an inspector, the elector shall, without leaving the polling place, retire to a booth or compartment and mark the ballot. After preparing his or her ballot, the elector shall place the ballot in a secrecy envelope with the stub exposed or shall fold over that portion on which write-in votes may be cast, as instructed, so that the ballot will be deposited in the ballot box without exposing the voter's choices. Before the ballot is deposited in the ballot box, the inspector

shall detach the exposed stub and place it in a separate envelope for audit purposes; when a fold-over ballot is used, the entire ballot shall be placed in the ballot box.

(b) Any voter who spoils his or her ballot or makes an error may return the ballot to the election official and secure another ballot, except that in no case shall a voter be furnished more than three ballots. If the vote tabulation device has rejected a ballot, the ballot shall be considered spoiled and a new ballot shall be provided to the voter unless the voter chooses to cast the rejected ballot. The election official, without examining the original ballot, shall state the possible reasons for the rejection and shall provide instruction to the voter pursuant to s. 101.5611. A spoiled ballot shall be preserved, without examination, in an envelope provided for that purpose. The stub shall be removed from the ballot and placed in an envelope.

(c) The supervisor of elections shall prepare for each polling place at least one ballot box to contain the ballots of a particular precinct, and each ballot box shall be plainly marked with the name of the precinct for which it is intended.

(3) The Department of State shall promulgate rules regarding voting procedures to be used when an electronic or electromechanical voting system is of a type which does not utilize a ballot card or *marksense paper* ballot.

Section 37. Subsection (2) of section 101.5612, Florida Statutes, is amended to read:

101.5612 Testing of tabulating equipment.—

(2) On any day not more than 10 days prior to the commencement of early voting as provided in s. 101.657, the supervisor of elections shall have the automatic tabulating equipment publicly tested to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. *If the ballots to be used at the polling place on election day are not available at the time of the testing, the supervisor may conduct an additional test not more than 10 days before election day.* Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication once in one or more newspapers of general circulation in the county or, if there is no newspaper of general circulation in the county, by posting the notice in at least four conspicuous places in the county. The supervisor or the municipal elections official may, at the time of qualifying, give written notice of the time and location of the public preelection test to each candidate qualifying with that office and obtain a signed receipt that the notice has been given. The Department of State shall give written notice to each statewide candidate at the time of qualifying, or immediately at the end of qualifying, that the voting equipment will be tested and advise each candidate to contact the county supervisor of elections as to the time and location of the public preelection test. The supervisor or the municipal elections official shall, at least 15 days prior to the commencement of early voting as provided in s. 101.657, send written notice by certified mail to the county party chair of each political party and to all candidates for other than statewide office whose names appear on the ballot in the county and who did not receive written notification from the supervisor or municipal elections official at the time of qualifying, stating the time and location of the public preelection test of the automatic tabulating equipment. The canvassing board shall convene, and each member of the canvassing board shall certify to the accuracy of the test. For the test, the canvassing board may designate one member to represent it. The test shall be open to representatives of the political parties, the press, and the public. Each political party may designate one person with expertise in the computer field who shall be allowed in the central counting room when all tests are being conducted and when the official votes are being counted. The designee shall not interfere with the normal operation of the canvassing board.

Section 38. Subsection (5) of section 101.5614, Florida Statutes, is amended to read:

101.5614 Canvass of returns.—

(5) If any absentee ballot is physically damaged so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. Likewise, a duplicate ballot shall be made of an absentee ballot containing an overvoted race or a marked absentee ballot in which every race is undervoted which

shall include all valid votes as determined by the canvassing board based on rules adopted by the division pursuant to s. 102.166(4)(5). All duplicate ballots shall be clearly labeled "duplicate," bear a serial number which shall be recorded on the defective ballot, and be counted in lieu of the defective ballot. After a ballot has been duplicated, the defective ballot shall be placed in an envelope provided for that purpose, and the duplicate ballot shall be tallied with the other ballots for that precinct.

Section 39. Section 101.572, Florida Statutes, is amended to read:

101.572 Public inspection of ballots.—The official ballots and ballot cards received from election boards and removed from absentee ballot mailing envelopes shall be open for public inspection or examination while in the custody of the supervisor of elections or the county canvassing board at any reasonable time, under reasonable conditions; however, no persons other than the supervisor of elections or his or her employees or the county canvassing board shall handle any official ballot or ballot card. *If the ballots are being examined prior to the end of the contest period in s. 102.168, the supervisor of elections shall make a reasonable effort to notify all candidates whose names appear on such ballots or ballot cards by telephone or otherwise of the time and place of the inspection or examination. All such candidates, or their representatives, shall be allowed to be present during the inspection or examination.*

Section 40. Section 101.58, Florida Statutes, is amended to read:

101.58 Supervising and observing registration and election processes.—

(1) The Department of State may, at any time it deems fit; upon the petition of 5 percent of the registered electors; or upon the petition of any candidate, county executive committee chair, state committeeman or committeewoman, or state executive committee chair, appoint one or more deputies whose duties shall be to observe and examine the registration and election processes and the condition, custody, and operation of voting systems and equipment in any county or municipality. The deputy shall have access to all registration books and records as well as any other records or procedures relating to the voting process. The deputy may supervise preparation of the voting equipment and procedures for election, and it shall be unlawful for any person to obstruct the deputy in the performance of his or her duty. The deputy shall file with the Department of State a report of his or her findings and observations of the registration and election processes in the county or municipality, and a copy of the report shall also be filed with the clerk of the circuit court of said county. The compensation of such deputies shall be fixed by the Department of State; and costs incurred under this section shall be paid from the annual operating appropriation made to the Department of State.

(2) *Upon the written direction of the Secretary of State, any employee of the Department of State having expertise in the matter of concern to the Secretary of State shall have full access to all premises, records, equipment, and staff of the supervisor of elections.*

Section 41. Subsection (1) of section 101.595, Florida Statutes, is amended to read:

101.595 Analysis and reports of voting problems.—

(1) No later than December 15 of each general election year, the supervisor of elections in each county shall report to the Department of State the total number of overvotes and undervotes in the "President and Vice President" or "Governor and Lieutenant Governor" race that appears first on the ballot or, if neither appears, the first race appearing on the ballot pursuant to s. 101.151(2), along with the likely reasons for such overvotes and undervotes and other information as may be useful in evaluating the performance of the voting system and identifying problems with ballot design and instructions which may have contributed to voter confusion.

Section 42. Section 101.6103, Florida Statutes, is amended to read:

101.6103 Mail ballot election procedure.—

(1) Except as otherwise provided in subsection (7) (6), the supervisor of elections shall mail all official ballots with a secrecy envelope, a return mailing envelope, and instructions sufficient to describe the voting process to each elector entitled to vote in the election not sooner than the 20th day before the election and not later than the 10th day before the

date of the election. All such ballots shall be mailed by first-class mail. Ballots shall be addressed to each elector at the address appearing in the registration records and placed in an envelope which is prominently marked "Do Not Forward."

(2) Upon receipt of the ballot the elector shall mark the ballot, place it in the secrecy envelope, sign the return mailing envelope supplied with the ballot, and comply with the instructions provided with the ballot. The elector shall mail, deliver, or have delivered the marked ballot so that it reaches the supervisor of elections no later than 7 p.m. on the day of the election. The ballot must be returned in the return mailing envelope.

(3) The return mailing envelope shall contain a statement in substantially the following form:

VOTER'S CERTIFICATE

I, (Print Name), do solemnly swear (or affirm) that I am a qualified voter in this election and that I have not and will not vote more than one ballot in this election.

I understand that failure to sign this certificate and give my residence address will invalidate my ballot.

(Signature)

(Residence Address)

(4) If the ballot is destroyed, spoiled, lost, or not received by the elector, the elector may obtain a replacement ballot from the supervisor of elections as provided in this subsection. An elector seeking a replacement ballot shall sign a sworn statement that the ballot was destroyed, spoiled, lost, or not received and present such statement to the supervisor of elections prior to 7 p.m. on the day of the election. The supervisor of elections shall keep a record of each replacement ballot provided under this subsection.

(5) A ballot shall be counted only if:

- (a) It is returned in the return mailing envelope;
- (b) The elector's signature has been verified as provided in this subsection; and
- (c) It is received by the supervisor of elections not later than 7 p.m. on the day of the election.

The supervisor of elections shall verify the signature of each elector on the return mailing envelope with the signature on the elector's registration records. Such verification may commence at any time prior to the canvass of votes. The supervisor of elections shall safely keep the ballot unopened in his or her office until the county canvassing board canvasses the vote. If the supervisor of elections determines that an elector to whom a replacement ballot has been issued under subsection (4) has voted more than once, the canvassing board shall determine which ballot, if any, is to be counted.

(6) *The canvassing board may begin the canvassing of mail ballots at 7 a.m. on the fourth day before the election, including processing the ballots through the tabulating equipment. However, results may not be released until after 7 p.m. on election day. Any canvassing board member or election employee who releases any result before 7 p.m. on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

(7)(6) With respect to absent electors overseas entitled to vote in the election, the supervisor of elections shall mail an official ballot with a secrecy envelope, a return mailing envelope, and instructions sufficient to describe the voting process to each such elector on a date sufficient to allow such elector time to vote in the election and to have his or her marked ballot reach the supervisor by 7 p.m. on the day of the election.

(8) *Effective July 1, 2005, a ballot that otherwise satisfies the requirements of subsection (5) shall be counted even if the elector dies after mailing the ballot but before election day, as long as, prior to the death of the voter, the ballot was:*

- (a) Postmarked by the United States Postal Service;
- (b) Date-stamped with a verifiable tracking number by common carrier; or

(c) *Already in the possession of the supervisor of elections.*

Section 43. Section 101.62, Florida Statutes, is amended to read:

101.62 Request for absentee ballots.—

(1)(a) The supervisor may accept a request for an absentee ballot from an elector in person or in writing. Except as provided in s. 101.694, one request shall be deemed sufficient to receive an absentee ballot for all elections which are held within a calendar year, unless the elector or the elector's designee indicates at the time the request is made the elections for which the elector desires to receive an absentee ballot. Such request may be considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable.

(b) The supervisor may accept a written or telephonic request for an absentee ballot from the elector, or, if directly instructed by the elector, a member of the elector's immediate family, or the elector's legal guardian. For purposes of this section, the term "immediate family" has the same meaning as specified in paragraph (4)(b). The person making the request must disclose:

1. The name of the elector for whom the ballot is requested;
2. The elector's address;
3. The elector's date of birth;
4. The requester's name;
5. The requester's address;
6. The requester's driver's license number, if available;
7. The requester's relationship to the elector; and
8. The requester's signature (written requests only).

(2) ~~If A request for an absentee ballot to be mailed to a voter must be received no later than 5 p.m. on the sixth day after the Friday before the election by the supervisor of elections from an absent elector overseas, the supervisor shall send a notice to the elector acknowledging receipt of his or her request and notifying the elector that the ballot will not be forwarded due to insufficient time for return of the ballot by the required deadline. The supervisor of elections shall mail absentee ballots to voters requesting ballots by such deadline no later than 4 days before the election.~~

(3) For each request for an absentee ballot received, the supervisor shall record the date the request was made, the date the absentee ballot was delivered to the voter or the voter's designee or the date the absentee ballot was delivered to the post office or other carrier or mailed, the date the ballot was received by the supervisor, and such other information he or she may deem necessary. *This information shall be provided in electronic format as provided by rule adopted by the division. The information shall be updated and made available no later than noon of each day and shall be contemporaneously provided to the division.* This information shall be confidential and exempt from the provisions of s. 119.07(1) and shall be made available to or reproduced only for the voter requesting the ballot, a canvassing board, an election official, a political party or official thereof, a candidate who has filed qualification papers and is opposed in an upcoming election, and registered political committees or registered committees of continuous existence, for political purposes only.

(4)(a) To each absent qualified elector overseas who has requested an absentee ballot, the supervisor of elections shall, not fewer than 35 days before the first primary election, mail an absentee ballot. Not fewer than 45 days before the second primary and general election, the supervisor of elections shall mail an absentee ballot. *If the regular absentee ballots are not available, the supervisor shall mail an advance absentee ballot to those persons requesting ballots for such elections.* The advance absentee ballot for the second primary shall be the same as the first primary absentee ballot as to the names of candidates, except that for any offices where there are only two candidates, those offices and all political party executive committee offices shall be omitted. Except as provided in ss. 99.063(4) and 100.371(6), the advance absentee ballot for the general election shall be as specified in s. 101.151, except that in the case of candidates of political parties where nominations were not made in

the first primary, the names of the candidates placing first and second in the first primary election shall be printed on the advance absentee ballot. The advance absentee ballot or advance absentee ballot information booklet shall be of a different color for each election and also a different color from the absentee ballots for the first primary, second primary, and general election. The supervisor shall mail an advance absentee ballot for the second primary and general election to each qualified absent elector for whom a request is received until the absentee ballots are printed. The supervisor shall enclose with the advance second primary absentee ballot and advance general election absentee ballot an explanation stating that the absentee ballot for the election will be mailed as soon as it is printed; and, if both the advance absentee ballot and the absentee ballot for the election are returned in time to be counted, only the absentee ballot will be counted. The Department of State may prescribe by rule the requirements for preparing and mailing absentee ballots to absent qualified electors overseas.

(b) As soon as the remainder of the absentee ballots are printed, the supervisor shall provide an absentee ballot to each elector by whom a request for that ballot has been made by one of the following means:

1. By nonforwardable, return-if-undeliverable mail to the elector's current mailing address on file with the supervisor, unless the elector specifies in the request that:

- a. The elector is absent from the county and does not plan to return before the day of the election;
- b. The elector is temporarily unable to occupy the residence because of hurricane, tornado, flood, fire, or other emergency or natural disaster; or
- c. The elector is in a hospital, assisted-living facility, nursing home, short-term medical or rehabilitation facility, or correctional facility,

in which case the supervisor shall mail the ballot by nonforwardable, return-if-undeliverable mail to any other address the elector specifies in the request.

2. By forwardable mail to voters who are entitled to vote by absentee ballot under the Uniformed and Overseas Citizens *Absentee* Voting Act.

3. By personal delivery *before 7 p.m. on election day* to the elector, upon presentation of the identification required in s. 101.657.

4. By delivery to a designee on election day or up to 4 days prior to the day of an election. Any elector may designate in writing a person to pick up the ballot for the elector; however, the person designated may not pick up more than two absentee ballots per election, other than the designee's own ballot, except that additional ballots may be picked up for members of the designee's immediate family. For purposes of this section, "immediate family" means the designee's spouse or the parent, child, grandparent, or sibling of the designee or of the designee's spouse. The designee shall provide to the supervisor the written authorization by the elector and a picture identification of the designee and must complete an affidavit. The designee shall state in the affidavit that the designee is authorized by the elector to pick up that ballot and shall indicate if the elector is a member of the designee's immediate family and, if so, the relationship. The department shall prescribe the form of the affidavit. If the supervisor is satisfied that the designee is authorized to pick up the ballot and that the signature of the elector on the written authorization matches the signature of the elector on file, the supervisor shall give the ballot to that designee for delivery to the elector.

(5) In the event that the Elections Canvassing Commission is unable to certify the results of an election for a state office in time to comply with subsection (4), the Department of State is authorized to prescribe rules for a ballot to be sent to absent electors overseas.

(6) Nothing other than the materials necessary to vote absentee shall be mailed or delivered with any absentee ballot.

Section 44. Section 101.64, Florida Statutes, is amended to read:

101.64 Delivery of absentee ballots; envelopes; form.—

(1) The supervisor shall enclose with each absentee ballot two envelopes: a secrecy envelope, into which the absent elector shall enclose his or her marked ballot; and a mailing envelope, into which the absent elector shall then place the secrecy envelope, which shall be addressed

to the supervisor and also bear on the back side a certificate in substantially the following form:

Note: Please Read Instructions Carefully Before
Marking Ballot and Completing Voter's Certificate.

VOTER'S CERTIFICATE

I, . . . , do solemnly swear or affirm that I am a qualified and registered voter of . . . County, Florida, and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt to commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to 5 years. I also understand that failure to sign this certificate will invalidate my ballot.

(Date)

(Voter's Signature)

(2) The certificate shall be arranged on the back of the mailing envelope so that the line for the signature of the absent elector is across the seal of the envelope; however, no statement shall appear on the envelope which indicates that a signature of the voter must cross the seal of the envelope. The absent elector shall execute the certificate on the envelope.

(3) *In lieu of the voter's certificate provided in this section, the supervisor of elections shall provide each person voting absentee under the Uniformed and Overseas Citizens Absentee Voting Act with the standard oath prescribed by the presidential designee.*

Section 45. Subsection (1) of section 101.657, Florida Statutes, is amended, present subsection (2) of that section is renumbered as subsection (4), and new subsections (2) and (3) are added to that section, to read:

101.657 Early voting.—

(1)(a) *As a convenience to the voter, the supervisor of elections shall allow an elector to vote early in the main or branch office of the supervisor by depositing the voted ballot in a voting device used by the supervisor to collect or tabulate ballots. In order for a branch office to be used for early voting, it shall be a permanent full-service facility of the supervisor and shall have been designated and used as such for at least 1 year prior to the election. The supervisor may also designate any city hall or permanent public library facility as early voting sites; however, if so designated, the sites must be geographically located so as to provide all voters in the county an equal opportunity to cast a ballot, insofar as is practicable. The results or tabulation of votes cast during early voting may not be made before the close of the polls on election day. Results shall be reported by precinct.*

(b) *The supervisor shall designate each early voting site by no later than the 30th day prior to an election and shall designate an early voting area, as defined in s. 97.021, at each early voting site.*

(c) *All early voting sites in a county shall be open on the same days for the same amount of time and shall allow any person in line at the closing of an early voting site to vote.*

(d)(b) *Early voting shall begin on the 15th day before an election and end on the 2nd day before an election. For purposes of a special election held pursuant to s. 100.101, early voting shall begin on the 8th day before an election and end on the 2nd day before an election. Early voting shall be provided for at least 8 hours per weekday and 8 hours in the aggregate each weekend at each site during the applicable periods. Early voting sites shall open no sooner than 7 a.m. and close no later than 7 p.m. on each applicable day during the applicable periods. Early voting shall also be provided for 8 hours in the aggregate for each weekend during the applicable periods.*

(e) *Notwithstanding the requirements of s. 100.3605, municipalities may provide early voting in municipal elections that are not held in conjunction with county or state elections. If a municipality provides early voting, it may designate as many sites as necessary and shall conduct its activities in accordance with the provisions of paragraphs (a)-(c). The supervisor is not required to conduct early voting if it is provided pursuant to this subsection.*

(f) *Notwithstanding the requirements of s. 189.405, special districts may provide early voting in any district election not held in conjunction*

with county or state elections. If a special district provides early voting, it may designate as many sites as necessary and shall conduct its activities in accordance with the provisions of paragraphs (a)-(c). The supervisor is not required to conduct early voting if it is provided pursuant to this subsection.

(2) *During any early voting period, each supervisor of elections shall make available the total number of voters casting a ballot at each early voting location during the previous day. Each supervisor shall prepare an electronic data file listing the individual voters who cast a ballot during the early voting period. This information shall be provided in electronic format as provided by rule adopted by the division. The information shall be updated and made available no later than noon of each day and shall be contemporaneously provided to the division.*

(3) *The ballot of each elector voting early shall be counted even if the elector dies on or before election day.*

Section 46. Subsection (2) of section 101.663, Florida Statutes, is amended to read:

101.663 Electors; change of residence.—

(2) *An elector registered in this state who moves his or her permanent residence to another state after the registration books in that state have closed and who is prohibited by the laws of that state from voting for the offices of President and Vice President of the United States shall be permitted to vote absentee in the county of his or her former residence for the offices of President and Vice President of the United States those offices.*

Section 47. Subsection (1) and paragraph (c) of subsection (2) of section 101.68, Florida Statutes, are amended to read:

101.68 Canvassing of absentee ballot.—

(1) *The supervisor of the county where the absent elector resides shall receive the voted ballot, at which time the supervisor shall compare the signature of the elector on the voter's certificate with the signature of the elector in the registration books to determine whether the elector is duly registered in the county and may record on the elector's registration certificate that the elector has voted. However, effective July 1, 2005, an elector who dies after casting an absentee ballot but on or before election day shall remain listed in the registration books until the results have been certified for the election in which the ballot was cast. The supervisor shall safely keep the ballot unopened in his or her office until the county canvassing board canvasses the vote. After an absentee ballot is received by the supervisor, the ballot is deemed to have been cast, and changes or additions may not be made to the voter's certificate.*

(2)

(c)1. *The canvassing board shall, if the supervisor has not already done so, compare the signature of the elector on the voter's certificate with the signature of the elector in the registration books to see that the elector is duly registered in the county and to determine the legality of that absentee ballot. Effective July 1, 2005, the ballot of an elector who casts an absentee ballot shall be counted even if the elector dies on or before election day, as long as, prior to the death of the voter, the ballot was postmarked by the United States Postal Service, date-stamped with a verifiable tracking number by common carrier, or already in the possession of the supervisor of elections. An absentee ballot shall be considered illegal if it does not include the signature of the elector, as shown by the registration records. However, an absentee ballot shall not be considered illegal if the signature of the elector does not cross the seal of the mailing envelope. If the canvassing board determines that any ballot is illegal, a member of the board shall, without opening the envelope, mark across the face of the envelope: "rejected as illegal." The envelope and the ballot contained therein shall be preserved in the manner that official ballots voted are preserved.*

2. *If any elector or candidate present believes that an absentee ballot is illegal due to a defect apparent on the voter's certificate, he or she may, at any time before the ballot is removed from the envelope, file with the canvassing board a protest against the canvass of that ballot, specifying the precinct, the ballot, and the reason he or she believes the ballot to be illegal. A challenge based upon a defect in the voter's certificate may not be accepted after the ballot has been removed from the mailing envelope.*

Section 48. Section 101.69, Florida Statutes, is amended to read:

101.69 Voting in person; return of absentee ballot.—The provisions of this code shall not be construed to prohibit any elector from voting in person at the elector's precinct on the day of an election or at an early voting site, notwithstanding that the elector has requested an absentee ballot for that election. *An elector who has returned a voted absentee ballot to the supervisor, however, is deemed to have cast his or her ballot and is not entitled to vote another ballot or to have a provisional ballot counted by the county canvassing board.* An elector who has received an absentee ballot and has not returned the voted ballot to the supervisor, but desires to vote in person, shall return the ballot, whether voted or not, to the election board in the elector's precinct or to an early voting site. The returned ballot shall be marked "canceled" by the board and placed with other canceled ballots. However, if the elector does not return the ballot and the election official:

(1) Confirms that the supervisor has received the elector's absentee ballot, the elector shall not be allowed to vote in person. *If the elector maintains that he or she has not returned the absentee ballot or remains eligible to vote, the elector shall be provided a provisional ballot as provided in s. 101.048.*

(2) Confirms that the supervisor has not received the elector's absentee ballot, the elector shall be allowed to vote in person as provided in this code. The elector's absentee ballot, if subsequently received, shall not be counted and shall remain in the mailing envelope, and the envelope shall be marked "Rejected as Illegal."

(3) Cannot determine whether the supervisor has received the elector's absentee ballot, the elector may vote a provisional ballot as provided in s. 101.048.

Section 49. Section 101.6923, Florida Statutes, is amended to read:

101.6923 Special absentee ballot instructions for certain first-time voters.—

(1) The provisions of this section apply to voters who registered to vote by mail, who have not previously voted in the county, and who have not provided the identification or information required by s. 97.0535 by the time the absentee ballot is mailed.

(2) A voter covered by this section shall be provided with the following printed instructions with his or her absentee ballot *in substantially the following form:*

READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING YOUR BALLOT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR BALLOT NOT TO COUNT.

1. In order to ensure that your absentee ballot will be counted, it should be completed and returned as soon as possible so that it can reach the supervisor of elections of the county in which your precinct is located no later than 7 p.m. on the date of the election.

2. Mark your ballot in secret as instructed on the ballot. You must mark your own ballot unless you are unable to do so because of blindness, disability, or inability to read or write.

3. Mark only the number of candidates or issue choices for a race as indicated on the ballot. If you are allowed to "Vote for One" candidate and you vote for more than one, your vote in that race will not be counted.

4. Place your marked ballot in the enclosed secrecy envelope and seal the envelope.

5. Insert the secrecy envelope into the enclosed envelope bearing the Voter's Certificate. Seal the envelope and completely fill out the Voter's Certificate on the back of the envelope.

a. You must sign your name on the line above (Voter's Signature).

b. If you are an overseas voter, you must include the date you signed the Voter's Certificate on the line above (Date) or your ballot may not be counted.

6. Unless you meet one of the exemptions in Item 7., you must make a copy of one of the following forms of identification:

a. Identification which must include your name and photograph: current and valid Florida driver's license; Florida identification card issued by the Department of Highway Safety and Motor Vehicles; United States passport; employee badge or identification; buyer's club identification card; debit or credit card; military identification; student identification; retirement center identification; neighborhood association identification; entertainment identification; or public assistance identification; or

b. Identification which shows your name and current residence address: current utility bill, bank statement, government check, paycheck, or government document (excluding voter identification card).

7. The identification requirements of Item 6. do not apply if you meet one of the following requirements:

a. You are 65 years of age or older.

b. You have a temporary or permanent physical disability.

c. You are a member of a uniformed service on active duty who, by reason of such active duty, will be absent from the county on election day.

d. You are a member of the Merchant Marine who, by reason of service in the Merchant Marine, will be absent from the county on election day.

e. You are the spouse or dependent of a member referred to in paragraph c. or paragraph d. who, by reason of the active duty or service of the member, will be absent from the county on election day.

f. You are currently residing outside the United States.

8. Place the envelope bearing the Voter's Certificate into the mailing envelope addressed to the supervisor. Insert a copy of your identification in the mailing envelope. **DO NOT PUT YOUR IDENTIFICATION INSIDE THE SECRECY ENVELOPE WITH THE BALLOT OR INSIDE THE ENVELOPE WHICH BEARS THE VOTER'S CERTIFICATE OR YOUR BALLOT WILL NOT COUNT.**

9. Mail, deliver, or have delivered the completed mailing envelope. Be sure there is sufficient postage if mailed.

10. **FELONY NOTICE.** It is a felony under Florida law to accept any gift, payment, or gratuity in exchange for your vote for a candidate. It is also a felony under Florida law to vote in an election using a false identity or false address, or under any other circumstances making your ballot false or fraudulent.

Section 50. Subsection (3) of section 101.694, Florida Statutes, is amended to read:

101.694 Mailing of ballots upon receipt of federal postcard application.—

(3) ~~Absentee envelopes printed for voters entitled to vote absentee under the Uniformed and Overseas Citizens Absentee Voting Act shall meet the specifications as determined by the Federal Voting Assistance Program of the United States Department of Defense and the United States Postal Service. There shall be printed across the face of each envelope in which a ballot is sent to a federal postcard applicant, or is returned by such applicant to the supervisor, two parallel horizontal red bars, each one quarter inch wide, extending from one side of the envelope to the other side, with an intervening space of one quarter inch, the top bar to be 1/4 inches from the top of the envelope, and with the words "Official Election Balloting Material via Air Mail," or similar language, between the bars. There shall be printed in the upper right corner of each such envelope, in a box, the words "Free of U. S. Postage, including Air Mail." All printing on the face of each envelope shall be in red, and there shall be printed in red in the upper left corner of each ballot envelope an appropriate inscription or blanks for return address of sender. Additional specifications may be prescribed by rule of the Division of Elections upon recommendation of the presidential designee under the Uniformed and Overseas Citizens Absentee Voting Act. Otherwise, the envelopes shall be the same as those used in sending ballots to, or receiving them from, other absentee voters.~~

Section 51. Section 101.697, Florida Statutes, is amended to read:

101.697 Electronic transmission of election materials.—The Department of State shall determine whether secure electronic means can be established for receiving ballots from overseas voters. If such security can be established, the department shall adopt rules to authorize a supervisor of elections to accept from an overseas voter a request for an absentee ballot or ~~and a voted absentee ballot by secure facsimile machine transmission or other secure electronic means from overseas voters.~~ The rules must provide that in order to accept a voted ballot, the verification of the voter must be established, the security of the transmission must be established, and each ballot received must be recorded.

Section 52. Section 102.012, Florida Statutes, is amended to read:

102.012 Inspectors and clerks to conduct elections.—

(1) The supervisor of elections of each county, at least 20 days prior to the holding of any election, shall appoint ~~an election board comprised of poll workers who serve as clerks or inspectors two election boards for each precinct in the county; however, the supervisor of elections may, in any election, appoint one election board if the supervisor has reason to believe that only one is necessary.~~ The clerk shall be in charge of, and responsible for, seeing that the election board carries out its duties and responsibilities. Each inspector and each clerk shall take and subscribe to an oath or affirmation, which shall be written or printed, to the effect that he or she will perform the duties of inspector or clerk of election, respectively, according to law and will endeavor to prevent all fraud, deceit, or abuse in conducting the election. The oath may be taken before an officer authorized to administer oaths or before any of the persons who are to act as inspectors, one of them to swear the others, and one of the others sworn thus, in turn, to administer the oath to the one who has not been sworn. The oaths shall be returned with the poll list and the returns of the election to the supervisor. In all questions that may arise before the members of an election board, the decision of a majority of them shall decide the question. The supervisor of elections of each county shall be responsible for the attendance and diligent performance of his or her duties by each clerk and inspector.

(2) Each member of the election board shall be able to read and write the English language and shall be a registered qualified elector of the county in which the member is appointed or a person who has preregistered to vote, pursuant to s. 97.041(1)(b), in the county in which the member is appointed. No election board shall be composed solely of members of one political party; however, in any primary in which only one party has candidates appearing on the ballot, all clerks and inspectors may be of that party. Any person whose name appears as an opposed candidate for any office shall not be eligible to serve on an election board.

(3) The supervisor shall furnish inspectors of election for each precinct with the ~~list of registered voters for the precinct registration books divided alphabetically as will best facilitate the holding of an election.~~ The supervisor shall also furnish to the inspectors of election at the polling place at each precinct in the supervisor's county a sufficient number of forms and blanks for use on election day.

(4)(a) The election board of each precinct shall attend the polling place by 6 a.m. of the day of the election and shall arrange the furniture, stationery, and voting equipment.

(b) ~~The An election board shall conduct the voting, beginning and closing at the time set forth in s. 100.011. If more than one board has been appointed, the second board shall, upon the closing of the polls, come on duty and count the votes cast. In such case, the first board shall turn over to the second board all closed ballot boxes, registration books, and other records of the election at the time the boards change. The second board shall continue counting until the count is complete or until 7 a.m. the next morning, and, if the count is not completed at that time, the first board that conducted the election shall again report for duty and complete the count. The second board shall turn over to the first board all ballots counted, all ballots not counted, and all registration books and other records and shall advise the first board as to what has transpired in tabulating the results of the election.~~

(5) ~~In precincts in which there are more than 1,000 registered electors, the supervisor of elections shall appoint additional election boards necessary for the election.~~

(6) ~~In any precinct in which there are fewer than 300 registered electors, it is not necessary to appoint two election boards, but one such~~

~~board will suffice. Such board shall be composed of at least one inspector and one clerk.~~

Section 53. Subsections (1), (2), (3), and (5) of section 102.014, Florida Statutes, is amended to read:

102.014 Poll worker recruitment and training.—

(1) The supervisor of elections shall conduct training for inspectors, clerks, and deputy sheriffs prior to each primary, general, and special election for the purpose of instructing such persons in their duties and responsibilities as election officials. *The Division of Elections shall develop a statewide uniform training curriculum for poll workers, and each supervisor shall use such curriculum in training poll workers.* A certificate may be issued by the supervisor of elections to each person completing such training. No person shall serve as an inspector, clerk, or deputy sheriff for an election unless such person has completed the training as required. A clerk may not work at the polls unless he or she demonstrates a working knowledge of the laws and procedures relating to voter registration, voting system operation, balloting and polling place procedures, and problem-solving and conflict-resolution skills.

(2) A person who has attended previous training conducted within 2 years before the election may be appointed by the supervisor to fill a vacancy on an election board day. If no person with prior training is available to fill such vacancy, the supervisor of elections may fill such vacancy in accordance with the provisions of subsection (3) from among persons who have not received the training required by this section.

(3) In the case of absence or refusal to act on the part of any inspector or clerk ~~at any precinct on the day of an election,~~ the supervisor shall appoint a replacement who meets the qualifications prescribed in s. 102.012(2). The inspector or clerk so appointed shall be a member of the same political party as the clerk or inspector whom he or she replaces.

(5) The Department of State shall create a uniform polling place procedures manual and adopt the manual by rule. Each supervisor of elections shall ensure that the manual is available in hard copy or electronic form in every *polling place precinct in the supervisor's jurisdiction on election day.* The manual shall guide inspectors, clerks, and deputy sheriffs in the proper implementation of election procedures and laws. The manual shall be indexed by subject, and written in plain, clear, unambiguous language. The manual shall provide specific examples of common problems encountered at the polls ~~on election day,~~ and detail specific procedures for resolving those problems. The manual shall include, without limitation:

(a) Regulations governing solicitation by individuals and groups at the polling place;

(b) Procedures to be followed with respect to voters whose names are not on the precinct register;

(c) Proper operation of the voting system;

(d) Ballot handling procedures;

(e) Procedures governing spoiled ballots;

(f) Procedures to be followed after the polls close;

(g) Rights of voters at the polls;

(h) Procedures for handling emergency situations;

(i) Procedures for dealing with irate voters;

(j) The handling and processing of provisional ballots; and

(k) Security procedures.

The Department of State shall revise the manual as necessary to address new procedures in law or problems encountered by voters and poll workers at the precincts.

Section 54. Section 102.031, Florida Statutes, is amended to read:

102.031 Maintenance of good order at polls; authorities; persons allowed in polling rooms *and early voting areas;* unlawful solicitation of voters.—

(1) Each election board shall possess full authority to maintain order at the polls and enforce obedience to its lawful commands during an election and the canvass of the votes.

(2) The sheriff shall deputize a deputy sheriff for each polling place and each early voting site who shall be present during the time the polls or early voting sites are open and until the election is completed, who shall be subject to all lawful commands of the clerk or inspectors, and who shall maintain good order. The deputy may summon assistance from among bystanders to aid him or her when necessary to maintain peace and order at the polls or early voting sites.

(3)(a) No person may enter any polling room or polling place where the polling place is also a polling room, or any early voting area during voting hours except the following:

1. Official poll watchers;
2. Inspectors;
3. Election clerks;
4. The supervisor of elections or his or her deputy;
5. Persons there to vote, persons in the care of a voter, or persons caring for such voter;
6. Law enforcement officers or emergency service personnel there with permission of the clerk or a majority of the inspectors; or
7. A person, whether or not a registered voter, who is assisting with or participating in a simulated election for minors, as approved by the supervisor of elections.

(b) The restriction in this subsection does not apply where the polling room is in an area commonly traversed by the public in order to gain access to businesses or homes or in an area traditionally utilized as a public area for discussion.

~~(4)(a)(e)~~ No person, political committee, committee of continuous existence, or other group or organization may solicit voters inside the polling place or within 100 50 feet of the entrance to any polling place, or polling room where the polling place is also a polling room, or early voting site. Before the opening of the polling place or early voting site, the clerk or supervisor shall designate the no-solicitation zone and mark the boundaries. ~~on the day of any election.~~

- ~~1.—Solicitation shall not be restricted if:

 - a.—Conducted from a separately marked area within the 50-foot zone so as not to disturb, hinder, impede, obstruct, or interfere with voter access to the polling place or polling room entrance; and
 - b.—The solicitation activities and subject matter are clearly and easily identifiable by the voters as an activity in which they may voluntarily participate; or
 - e.—Conducted on property within the 50-foot zone which is a residence, established business, private property, sidewalk, park, or property traditionally utilized as a public area for discussion.~~
- ~~2.—Solicitation shall not be permitted within the 50-foot zone on a public sidewalk or other similar means of access to the polling room if it is clearly identifiable to the poll workers that the solicitation is impeding, obstructing, or interfering with voter access to the polling room or polling place.~~

~~(b)(d)~~ For the purpose of this subsection, the term “solicit” shall include, but not be limited to, seeking or attempting to seek any vote, fact, opinion, or contribution; distributing or attempting to distribute any political or campaign material, leaflet, or handout; conducting a poll; seeking or attempting to seek a signature on any petition; and selling or attempting to sell any item.

~~(c)(e)~~ Each supervisor of elections shall inform the clerk of each precinct of the area within which soliciting is unlawful, based on the particular characteristics of that polling place. The supervisor or the clerk may take any reasonable action necessary to ensure order at the polling places, including, but not limited to, which shall include:

~~1.—Designating a specific area for soliciting pursuant to paragraph (c) of this subsection, or~~

~~2. having disruptive and unruly persons removed by law enforcement officers from the polling room or place or from the 100-foot 50-foot zone surrounding the polling place.~~

~~(5) No photography is permitted in the polling room or early voting area.~~

Section 55. Section 102.071, Florida Statutes, is amended to read:

102.071 Tabulation of votes and proclamation of results ~~where ballots are used.~~—The election board shall post at the polls, for the benefit of the public, the results of the voting for each office or other item on the ballot as the count is completed. Upon completion of all counts in all races, a certificate ~~triplicate certificates~~ of the results shall be drawn up by the inspectors and clerk at each precinct upon a form provided by the supervisor of elections which shall contain the name of each person voted for, for each office, and the number of votes cast for each person for such office; and, if any question is submitted, the certificate shall also contain the number of votes cast for and against the question. The certificate shall be signed by the inspectors and clerk, and ~~one of the certificates shall be delivered without delay by one of the inspectors, securely sealed, to the supervisor for immediate publication; the duplicate copy of the certificate shall be delivered to the county court judge; and the remaining copy shall be enclosed in the ballot box together with the oaths of inspectors and clerks.~~ All the ballot boxes, ballots, ballot stubs, memoranda, and papers of all kinds used in the election shall also be transmitted, ~~after being sealed by the inspectors, to with the certificates of result of the election to be filed in the supervisor’s office.~~ Registration books and the poll lists shall not be placed in the ballot boxes but shall be returned to the supervisor.

Section 56. Section 102.111, Florida Statutes, is amended to read:

102.111 Elections Canvassing Commission.—

(1) The Elections Canvassing Commission shall consist of the Governor and two members of the Cabinet selected by the Governor. If a member of the Elections Canvassing Commission is unable to serve for any reason, the Governor shall appoint a remaining member of the Cabinet. If there is a further vacancy, the remaining members of the commission shall agree on another elected official to fill the vacancy. The Elections Canvassing Commission shall, as soon as the official results are compiled from all counties, certify the returns of the election and determine and declare who has been elected for each federal, state, and multicounty office. *If a member of a county canvassing board that was constituted pursuant to s. 102.141 determines, within 5 days after the certification by the Elections Canvassing Commission, that a typographical error occurred in the official returns of the county, the correction of which could result in a change in the outcome of an election, the county canvassing board must certify corrected returns to the Department of State within 24 hours, and the Elections Canvassing Commission must correct and recertify the election returns as soon as practicable.*

(2) The Division of Elections shall provide the staff services required by the Elections Canvassing Commission.

Section 57. Section 102.112, Florida Statutes, is amended to read:

102.112 Deadline for submission of county returns to the Department of State.—

(1) The county canvassing board or a majority thereof shall file the county returns for the election of a federal or state officer with the Department of State immediately after certification of the election results. *The returns must contain a certification by the canvassing board that the board has reconciled the number of persons who voted with the number of ballots counted and that the certification includes all valid votes cast in the election.*

(2) Returns must be filed by 5 p.m. on the 7th day following a primary election and by 5 p.m. on the 11th day following the general election. *However, the Department of State may correct typographical errors, including the transposition of numbers, in any returns submitted to the Department of State pursuant to s. 102.111(1).*

(3) If the returns are not received by the department by the time specified, such returns shall be ignored and the results on file at that time shall be certified by the department.

(4) If the returns are not received by the department due to an emergency, as defined in s. 101.732, the Elections Canvassing Commission shall determine the deadline by which the returns must be received.

Section 58. Section 102.141, Florida Statutes, is amended to read:

102.141 County canvassing board; duties.—

(1) The county canvassing board shall be composed of the supervisor of elections; a county court judge, who shall act as chair; and the chair of the board of county commissioners. In the event any member of the county canvassing board is unable to serve, is a candidate who has opposition in the election being canvassed, or is an active participant in the campaign or candidacy of any candidate who has opposition in the election being canvassed, such member shall be replaced as follows:

(a) If no county court judge is able to serve or if all are disqualified, the chief judge of the judicial circuit in which the county is located shall appoint as a substitute member a qualified elector of the county who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed. In such event, the members of the county canvassing board shall meet and elect a chair.

(b) If the supervisor of elections is unable to serve or is disqualified, the chair of the board of county commissioners shall appoint as a substitute member a member of the board of county commissioners who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed. The supervisor, however, shall act in an advisory capacity to the canvassing board.

(c) If the chair of the board of county commissioners is unable to serve or is disqualified, the board of county commissioners shall appoint as a substitute member one of its members who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed.

(d) If a substitute member cannot be appointed as provided elsewhere in this subsection, the chief judge of the judicial circuit in which the county is located shall appoint as a substitute member a qualified elector of the county who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed.

(2) The county canvassing board shall meet in a building accessible to the public in the county where the election occurred at a time and place to be designated by the supervisor of elections to publicly canvass the absentee electors' ballots as provided for in s. 101.68 and provisional ballots as provided by ss. 101.048, 101.049, and 101.6925. Provisional ballots cast pursuant to s. 101.049 shall be canvassed in a manner that votes for candidates and issues on those ballots can be segregated from other votes. Public notice of the time and place at which the county canvassing board shall meet to canvass the absentee electors' ballots and provisional ballots shall be given at least 48 hours prior thereto by publication once in one or more newspapers of general circulation in the county or, if there is no newspaper of general circulation in the county, by posting such notice in at least four conspicuous places in the county. As soon as the absentee electors' ballots and the provisional ballots are canvassed, the board shall proceed to publicly canvass the vote given each candidate, nominee, constitutional amendment, or other measure submitted to the electorate of the county, as shown by the returns then on file in the office of the supervisor of elections and the office of the county court judge.

(3) The canvass, except the canvass of absentee electors' returns and the canvass of provisional ballots, shall be made from the returns and certificates of the inspectors as signed and filed by them with the ~~county court judge and supervisor, respectively,~~ and the county canvassing board shall not change the number of votes cast for a candidate, nominee, constitutional amendment, or other measure submitted to the electorate of the county, respectively, in any polling place, as shown by the returns. All returns shall be made to the board on or before 2 a.m. of the day following any primary, general, ~~special,~~ or other election. If the returns from any precinct are missing, if there are any omissions on the returns from any precinct, or if there is an obvious error on any such returns, the canvassing board shall order a ~~retabulation recount~~ of the

returns from such precinct. Before canvassing such returns, the canvassing board shall examine the tabulation of the ballots cast in such precinct and determine whether the returns correctly reflect the votes cast. If there is a discrepancy between the returns and the tabulation of the ballots cast, the tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly.

(4) The canvassing board shall submit *on forms or in formats provided by the division* unofficial returns to the Department of State for each federal, statewide, state, or multicounty office or ballot measure no later than noon on the ~~third second~~ day after any primary election and *no later than noon on the fifth day after any*, general, ~~special,~~ or other election. Such returns shall include the canvass of all ballots as required by subsection (2), *except for provisional ballots, which returns shall be reported at the time required for official returns pursuant to s. 102.112(2).*

(5) If the county canvassing board determines that the unofficial returns may contain a counting error in which the vote tabulation system failed to count votes that were properly marked in accordance with the instructions on the ballot, the county canvassing board shall:

(a) Correct the error and *retabulate* ~~recount~~ the affected ballots with the vote tabulation system; or

(b) Request that the Department of State verify the tabulation software. When the Department of State verifies such software, the department shall compare the software used to tabulate the votes with the software filed with the department pursuant to s. 101.5607 and check the election parameters.

(6) If the unofficial returns reflect that a candidate for any office was defeated or eliminated by one-half of a percent or less of the votes cast for such office, that a candidate for retention to a judicial office was retained or not retained by one-half of a percent or less of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by one-half of a percent or less of the votes cast on such measure, the board responsible for certifying the results of the vote on such race or measure shall order a recount of the votes cast with respect to such office or measure. *The Elections Canvassing Commission is the board responsible for ordering federal, state, and multi county recounts.* A recount need not be ordered with respect to the returns for any office, however, if the candidate or candidates defeated or eliminated from contention for such office by one-half of a percent or less of the votes cast for such office request in writing that a recount not be made.

(a) ~~In counties with voting systems that use paper ballots,~~ Each canvassing board responsible for conducting a recount shall put each *marksense* ballot through automatic tabulating equipment and determine whether the returns correctly reflect the votes cast. If any *marksense* ~~paper~~ ballot is physically damaged so that it cannot be properly counted by the automatic tabulating equipment during the recount, a true duplicate shall be made of the damaged ballot pursuant to the procedures in s. 101.5614(5). Immediately before the start of the recount ~~and after completion of the count,~~ a test of the tabulating equipment shall be conducted as provided in s. 101.5612. If the test indicates no error, the recount tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly. If an error is detected, the cause therefor shall be ascertained and corrected and the recount repeated, as necessary. The canvassing board shall immediately report the error, along with the cause of the error and the corrective measures being taken, to the Department of State. No later than 11 days after the election, the canvassing board shall file a separate incident report with the Department of State, detailing the resolution of the matter and identifying any measures that will avoid a future recurrence of the error.

(b) ~~In counties with voting systems that do not use paper ballots,~~ Each canvassing board responsible for conducting a recount *where touchscreen ballots were used* shall examine the counters on the precinct tabulators to ensure that the total of the returns on the precinct tabulators equals the overall election return. If there is a discrepancy between the overall election return and the counters of the precinct tabulators, the counters of the precinct tabulators shall be presumed correct and such votes shall be canvassed accordingly.

(c) The canvassing board shall submit *on forms or in formats provided by the division* a second set of unofficial returns to the Department of State for each federal, statewide, state, or multicounty office or ballot

measure no later than 3 p.m. ~~noon~~ on the ~~fifth~~ ~~third~~ day after any primary election and no later than 3 p.m. on the eighth day after any general election in which a recount was conducted pursuant to this subsection. If the canvassing board is unable to complete the recount prescribed in this subsection by the deadline, the second set of unofficial returns submitted by the canvassing board shall be identical to the initial unofficial returns and the submission shall also include a detailed explanation of why it was unable to timely complete the recount. However, the canvassing board shall complete the recount prescribed in this subsection, along with any manual recount prescribed in s. 102.166, and certify election returns in accordance with the requirements of this chapter.

(d) The Department of State shall adopt detailed rules prescribing additional recount procedures for each certified voting system, which shall be uniform to the extent practicable.

(7) The canvassing board may employ such clerical help to assist with the work of the board as it deems necessary, with at least one member of the board present at all times, until the canvass of the returns is completed. The clerical help shall be paid from the same fund as inspectors and other necessary election officials.

(8)(a) At the same time that the official results of an election are certified to the Department of State, the county canvassing board shall file a report with the Division of Elections on the conduct of the election. The report must describe:

1. All equipment or software malfunctions at the precinct level, at a counting location, or within computer and telecommunications networks supporting a county location, and the steps that were taken to address the malfunctions;

2. All election definition errors that were discovered after the logic and accuracy test, and the steps that were taken to address the errors;

3. All ballot printing errors or ballot supply problems, and the steps that were taken to address the errors or problems;

4. All staffing shortages or procedural violations by employees or precinct workers which were addressed by the supervisor of elections or the county canvassing board during the conduct of the election, and the steps that were taken to correct such issues;

5. All instances where needs for staffing or equipment were insufficient to meet the needs of the voters; and

6. Any additional information regarding material issues or problems associated with the conduct of the election.

(b) If a supervisor discovers new or additional information on any of the items required to be included in the report pursuant to paragraph (a) after the report is filed, the supervisor shall notify the division that new information has been discovered no later than the next business day after the discovery and the supervisor shall file an amended report signed by the supervisor of elections on the conduct of the election within 10 days after the discovery. ~~shall contain information relating to any problems incurred as a result of equipment malfunctions either at the precinct level or at a counting location, any difficulties or unusual circumstances encountered by an election board or the canvassing board, and any other additional information which the canvassing board feels should be made a part of the official election record.~~

(c) Such reports shall be maintained on file in the Division of Elections and shall be available for public inspection. The division shall utilize the reports submitted by the canvassing boards to determine what problems may be likely to occur in other elections and disseminate such information, along with possible solutions, to the supervisors of elections.

(9) The supervisor shall file with the department a copy of an export file from the results database of the county's voting system and other statistical information as may be required by the department, the Legislature, or the Election Assistance Commission. The department shall adopt rules establishing the required content and acceptable formats for the filings and time for filings.

102.166 Manual recounts.—

(1) If the second set of unofficial returns pursuant to s. 102.141 indicates that a candidate for any office was defeated or eliminated by one-quarter of a percent or less of the votes cast for such office, that a candidate for retention to a judicial office was retained or not retained by one-quarter of a percent or less of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by one-quarter of a percent or less of the votes cast on such measure, the board responsible for certifying the results of the vote on such race or measure shall order a manual recount of the overvotes and undervotes cast in the entire geographic jurisdiction of such office or ballot measure. *A manual recount may not be ordered, however, if the number of overvotes, undervotes, and provisional ballots is fewer than the number of votes needed to change the outcome of the election.*

~~(2)(a) If the second set of unofficial returns pursuant to s. 102.141 indicates that a candidate for any office was defeated or eliminated by between one quarter and one-half of a percent of the votes cast for such office, that a candidate for retention to judicial office was retained or not retained by between one quarter and one-half of a percent of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by between one quarter and one-half of a percent of the votes cast on such measure, any such candidate, the political party of such candidate, or any political committee that supports or opposes such ballot measure is entitled to a manual recount of the overvotes and undervotes cast in the entire geographic jurisdiction of such office or ballot measure, provided that a request for a manual recount is made by 5 p.m. on the third day after the election.~~

(b) For federal, statewide, state, and multicounty races and ballot issues, requests for a manual recount shall be made in writing to the state Elections Canvassing Commission. For all other races and ballot issues, requests for a manual recount shall be made in writing to the county canvassing board.

(c) Upon receipt of a proper and timely request, the Elections Canvassing Commission or county canvassing board shall immediately order a manual recount of overvotes and undervotes in all affected jurisdictions.

~~(2)(3)(a) Any hardware or software used to identify and sort overvotes and undervotes for a given race or ballot measure must be certified by the Department of State as part of the voting system pursuant to s. 101.015. Any such hardware or software must be capable of simultaneously counting votes. For certified voting systems, the department shall certify such hardware or software by July 1, 2002. If the department is unable to certify such hardware or software for a certified voting system by July 1, 2002, the department shall adopt rules prescribing procedures for identifying and sorting such overvotes and undervotes. The department's rules may provide for the temporary use of hardware or software whose sole function is identifying and sorting overvotes and undervotes.~~

~~(b) This subsection does not preclude the department from certifying hardware or software after July 1, 2002.~~

(b)(e) Overvotes and undervotes shall be identified and sorted while recounting ballots pursuant to s. 102.141, if the hardware or software for this purpose has been certified or the department's rules so provide.

(3)(4) Any manual recount shall be open to the public.

~~(4)(5)(a) A vote for a candidate or ballot measure shall be counted if there is a clear indication on the ballot that the voter has made a definite choice.~~

(b) The Department of State shall adopt specific rules for each certified voting system prescribing what constitutes a "clear indication on the ballot that the voter has made a definite choice." The rules may not:

1. Exclusively provide that the voter must properly mark or designate his or her choice on the ballot; or

2. Contain a catch-all provision that fails to identify specific standards, such as "any other mark or indication clearly indicating that the voter has made a definite choice."

~~(5)(6) Procedures for a manual recount are as follows:~~

Section 59. Section 102.166, Florida Statutes, is amended to read:

(a) The county canvassing board shall appoint as many counting teams of at least two electors as is necessary to manually recount the ballots. A counting team must have, when possible, members of at least two political parties. A candidate involved in the race shall not be a member of the counting team.

(b) Each duplicate ballot prepared pursuant to s. 101.5614(5) or s. 102.141(6) shall be compared with the original ballot to ensure the correctness of the duplicate.

(c) If a counting team is unable to determine whether the ballot contains a clear indication that the voter has made a definite choice, the ballot shall be presented to the county canvassing board for a determination.

(d) The Department of State shall adopt detailed rules prescribing additional recount procedures for each certified voting system which shall be uniform to the extent practicable. The rules shall address, at a minimum, the following areas:

1. Security of ballots during the recount process;
2. Time and place of recounts;
3. Public observance of recounts;
4. Objections to ballot determinations;
5. Record of recount proceedings; and
6. Procedures relating to candidate and petitioner representatives.

Section 60. Subsections (2) and (4) of section 102.168, Florida Statutes, are amended to read:

102.168 Contest of election.—

(2) Such contestant shall file a complaint, together with the fees prescribed in chapter 28, with the clerk of the circuit court within 10 days after midnight of the date the last board responsible for certifying the results officially county canvassing board empowered to canvass the returns certifies the results of the election being contested.

(4) The county canvassing board is an indispensable and or Elections Canvassing Commission shall be the proper party defendant in county and local elections; the Elections Canvassing Commission is an indispensable and proper party defendant in federal, state, and multicounty races; and the successful candidate is shall be an indispensable party to any action brought to contest the election or nomination of a candidate.

Section 61. Subsections (1) and (4) of section 103.021, Florida Statutes, are amended to read:

103.021 Nomination for presidential electors.—Candidates for presidential electors shall be nominated in the following manner:

(1) The Governor shall nominate the presidential electors of each political party. The state executive committee of each political party shall by resolution recommend candidates for presidential electors and deliver a certified copy thereof to the Governor before September 1 of each presidential election year. The Governor He or she shall nominate only the electors recommended by the state executive committee of the respective political party. Each such elector shall be a qualified elector of the party he or she represents who has taken an oath that he or she will vote for the candidates of the party that he or she is nominated to represent. The Governor shall certify to the Department of State on or before September 1, in each presidential election year, the names of a number of electors for each political party equal to the number of senators and representatives which this state has in Congress.

(4)(a) A minor political party that is affiliated with a national party holding a national convention to nominate candidates for President and Vice President of the United States may have the names of its candidates for President and Vice President of the United States printed on the general election ballot by filing with the Department of State a certificate naming the candidates for President and Vice President and listing the required number of persons to serve as electors. Notification to the Department of State under this subsection shall be made by

September 1 of the year in which the election is held. When the Department of State has been so notified, it shall order the names of the candidates nominated by the minor political party to be included on the ballot and shall permit the required number of persons to be certified as electors in the same manner as other party candidates. As used in this section, the term “national party” means a political party established and admitted to the ballot in at least one state other than Florida.

(b) A minor political party that is not affiliated with a national party holding a national convention to nominate candidates for President and Vice President of the United States may have the names of its candidates for President and Vice President printed on the general election ballot if a petition is signed by 1 percent of the registered electors of this state, as shown by the compilation by the Department of State for the preceding general election. A separate petition from each county for which signatures are solicited shall be submitted to the supervisors of elections of the respective county no later than July 15 of each presidential election year. The supervisor shall check the names and, on or before the date of the first primary, shall certify the number shown as registered electors of the county. The supervisor shall be paid by the person requesting the certification the cost of checking the petitions as prescribed in s. 99.097. The supervisor shall then forward the certificate to the Department of State, which shall determine whether or not the percentage factor required in this section has been met. When the percentage factor required in this section has been met, the Department of State shall order the names of the candidates for whom the petition was circulated to be included on the ballot and shall permit the required number of persons to be certified as electors in the same manner as other party candidates.

Section 62. Section 103.051, Florida Statutes, is amended to read:

103.051 Congress sets meeting dates of electors.—The presidential electors shall, at noon on the day that which is directed by Congress and at the time fixed by the Governor, meet at Tallahassee and perform the duties required of them by the Constitution and laws of the United States.

Section 63. Section 103.061, Florida Statutes, is amended to read:

103.061 Meeting of electors and filling of vacancies.—Each presidential elector shall, before 10 a.m. on the day fixed by Congress to elect a President and Vice President and at the time fixed by the Governor, give notice to the Governor that the elector is in Tallahassee and ready to perform the duties of presidential elector. The Governor shall forthwith deliver to the presidential electors present a certificate of the names of all the electors; and if, on examination thereof, it should be found that one or more electors are absent, the electors present shall elect by ballot, in the presence of the Governor, a person or persons to fill such vacancy or vacancies as may have occurred through the nonattendance of one or more of the electors.

Section 64. Section 103.121, Florida Statutes, is amended to read:

103.121 Powers and duties of executive committees.—

(1)(a) Each state and county executive committee of a political party shall have the power and duty:

1. To adopt a constitution by two-thirds vote of the full committee.
2. To adopt such bylaws as it may deem necessary by majority vote of the full committee.
3. To conduct its meetings according to generally accepted parliamentary practice.
4. To make party nomination when required by law.
5. To conduct campaigns for party nominees.
6. To raise and expend party funds. Such funds may not be expended or committed to be expended except after written authorization by the chair of the state or county executive committee.

(b) Except as otherwise provided in subsection (5), The county executive committee shall receive payment of assessments upon candidates to be voted for in a single county except state senators and members of the House of Representatives and representatives to the Congress of the

United States; and the state executive committees shall receive all other assessments authorized. All party assessments shall be 2 percent of the annual salary of the office sought by the respective candidate. All such committee assessments shall be remitted to the state executive committee of the appropriate party and distributed in accordance with subsection (5) (6).

~~(2) The state executive committee shall by resolution recommend candidates for presidential electors and deliver a certified copy thereof to the Governor prior to September 1 of each presidential election year.~~

~~(2)(3) The chair and treasurer of an executive committee of any political party shall be accountable for the funds of such committee and jointly liable for their proper expenditure for authorized purposes only. The chair and treasurer of the state executive committee of any political party shall furnish adequate bond, but not less than \$10,000, conditioned upon the faithful performance by such party officers of their duties and for the faithful accounting for party funds which shall come into their hands; and the chair and treasurer of a county executive committee of a political party shall furnish adequate bond, but not less than \$5,000, conditioned as aforesaid. A bond for the chair and treasurer of the state executive committee of a political party shall be filed with the Department of State. A bond for the chair and treasurer of a county executive committee shall be filed with the supervisor of elections. The funds of each such state executive committee shall be publicly audited at the end of each calendar year and a copy of such audit furnished to the Department of State for its examination prior to April 1 of the ensuing year. When filed with the Department of State, copies of such audit shall be public documents. The treasurer of each county executive committee shall maintain adequate records evidencing receipt and disbursement of all party funds received by him or her, and such records shall be publicly audited at the end of each calendar year and a copy of such audit filed with the supervisor of elections and the state executive committee prior to April 1 of the ensuing year.~~

(3)(4) Any chair or treasurer of a state or county executive committee of any political party who knowingly misappropriates, or makes an unlawful expenditure of, or a false or improper accounting for, the funds of such committee is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

~~(4)(5)(a) The central committee or other equivalent governing body of each state executive committee shall adopt a rule which governs the time and manner in which the respective county executive committees of such party may endorse, certify, screen, or otherwise recommend one or more candidates for such party's nomination for election. Upon adoption, such rule shall provide the exclusive method by which a county committee may so endorse, certify, screen, or otherwise recommend. No later than the date on which qualifying for public office begins pursuant to s. 99.061, the chair of each county executive committee shall notify in writing the supervisor of elections of his or her county whether the county executive committee has endorsed or intends to endorse, certify, screen, or otherwise recommend candidates for nomination pursuant to party rule. A copy of such notification shall be provided to the Secretary of State and to the chair of the appropriate state executive committee. Any county executive committee that endorses or intends to endorse, certify, screen, or otherwise recommend one or more candidates for nomination shall forfeit all party assessments which would otherwise be returned to the county executive committee; and such assessments shall be remitted instead to the state executive committee of such party, the provisions of paragraph (1)(b) to the contrary notwithstanding. No such funds so remitted to the state executive committee shall be paid, returned, or otherwise disbursed to the county executive committee under any circumstances. Any county executive committee that is in violation of any party rule after receiving the party assessment shall remit such party assessment to the state executive committee.~~

~~(b) Any state executive committee that endorses or intends to endorse, certify, screen, or otherwise recommend one or more candidates for nomination shall forfeit all party assessments which would otherwise be returned to the state executive committee; and such assessments shall be remitted instead to the General Revenue Fund of the state. Any state executive committee that is in violation of this section after receiving the party assessment shall remit such party assessment to the General Revenue Fund of the state.~~

(5)(6) The state chair of each state executive committee shall return the 2-percent committee assessment for county candidates to the appro-

appropriate county executive committees only upon receipt of a written statement that such county executive committee chooses not to endorse, certify, screen, or otherwise recommend one or more candidates for such party's nomination for election and upon the state chair's determination that the county executive committee is in compliance with all Florida statutes and all state party rules, bylaws, constitutions, and requirements.

Section 65. Section 105.031, Florida Statutes, is amended to read:

105.031 Qualification; filing fee; candidate's oath; items required to be filed.—

(1) TIME OF QUALIFYING.—Except for candidates for judicial office, nonpartisan candidates for multicounty office shall qualify with the Division of Elections of the Department of State and nonpartisan candidates for countywide or less than countywide office shall qualify with the supervisor of elections. Candidates for judicial office other than the office of county court judge shall qualify with the Division of Elections of the Department of State, and candidates for the office of county court judge shall qualify with the supervisor of elections of the county. Candidates for judicial office shall qualify no earlier than noon of the 120th day, and no later than noon of the 116th day, before the first primary election. Candidates for the office of school board member shall qualify no earlier than noon of the 50th day, and no later than noon of the 46th day, before the first primary election. Filing shall be on forms provided for that purpose by the Division of Elections and furnished by the appropriate qualifying officer. Any person seeking to qualify by the *petition process alternative method*, as set forth in s. 105.035, *who if the person* has submitted the necessary petitions by the required deadline and is notified after the fifth day prior to the last day for qualifying that the required number of signatures has been obtained, shall be entitled to subscribe to the candidate's oath and file the qualifying papers at any time within 5 days from the date he or she is notified that the necessary number of signatures has been obtained. Any person other than a write-in candidate who qualifies within the time prescribed in this subsection shall be entitled to have his or her name printed on the ballot.

(2) FILING IN GROUPS OR DISTRICTS.—Candidates shall qualify in groups or districts where multiple offices are to be filled.

(3) QUALIFYING FEE.—Each candidate qualifying for election to a judicial office or the office of school board member, except write-in judicial or school board candidates, shall, during the time for qualifying, pay to the officer with whom he or she qualifies a qualifying fee, which shall consist of a filing fee and an election assessment, or qualify by the *petition process alternative method*. The amount of the filing fee is 3 percent of the annual salary of the office sought. The amount of the election assessment is 1 percent of the annual salary of the office sought. The Department of State shall forward all filing fees to the Department of Revenue for deposit in the Elections Commission Trust Fund. The supervisor of elections shall forward all filing fees to the Elections Commission Trust Fund. The election assessment shall be deposited into the Elections Commission Trust Fund. The annual salary of the office for purposes of computing the qualifying fee shall be computed by multiplying 12 times the monthly salary authorized for such office as of July 1 immediately preceding the first day of qualifying. This subsection shall not apply to candidates qualifying for retention to judicial office.

(4) CANDIDATE'S OATH.—

(a) All candidates for the office of school board member shall subscribe to the oath as prescribed in s. 99.021.

(b) All candidates for judicial office shall subscribe to an oath or affirmation in writing to be filed with the appropriate qualifying officer upon qualifying. A printed copy of the oath or affirmation shall be furnished to the candidate by the qualifying officer and shall be in substantially the following form:

State of Florida
County of . . .

Before me, an officer authorized to administer oaths, personally appeared (please print name as you wish it to appear on the ballot), to me well known, who, being sworn, says he or she: is a candidate for the judicial office of . . . ; that his or her legal residence is . . . County, Florida; that he or she is a qualified elector of the state and of the territorial jurisdiction of the court to which he or she seeks election; that he or she is qualified under the constitution and laws of Florida to hold the judicial

office to which he or she desires to be elected or in which he or she desires to be retained; that he or she has taken the oath required by ss. 876.05-876.10, Florida Statutes; that he or she has qualified for no other public office in the state, the term of which office or any part thereof runs concurrent to the office he or she seeks; and that he or she has resigned from any office which he or she is required to resign pursuant to s. 99.012, Florida Statutes.

(Signature of candidate)

(Address)

Sworn to and subscribed before me this day of , (year) , at County, Florida.

(Signature and title of officer administering oath)

(5) ITEMS REQUIRED TO BE FILED.—

(a) In order for a candidate for judicial office or the office of school board member to be qualified, the following items must be received by the filing officer by the end of the qualifying period:

1. Except for candidates for retention to judicial office, a properly executed check drawn upon the candidate's campaign account in an amount not less than the fee required by subsection (3) or, in lieu thereof, the copy of the notice of obtaining ballot position pursuant to s. 105.035. If a candidate's check is returned by the bank for any reason, the filing officer shall immediately notify the candidate and the candidate shall, the end of qualifying notwithstanding, have 48 hours from the time such notification is received, excluding Saturdays, Sundays, and legal holidays, to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph shall disqualify the candidate.

2. The candidate's oath required by subsection (4), which must contain the name of the candidate as it is to appear on the ballot; the office sought, including the district or group number if applicable; and the signature of the candidate, duly acknowledged.

3. The loyalty oath required by s. 876.05, signed by the candidate and duly acknowledged.

4. The completed form for the appointment of campaign treasurer and designation of campaign depository, as required by s. 106.021. In addition, each candidate for judicial office, including an incumbent judge, shall file a statement with the qualifying officer, within 10 days after filing the appointment of campaign treasurer and designation of campaign depository, stating that the candidate has read and understands the requirements of the Florida Code of Judicial Conduct. Such statement shall be in substantially the following form:

Statement of Candidate for Judicial Office

I, (name of candidate) , a judicial candidate, have received, read, and understand the requirements of the Florida Code of Judicial Conduct.

(Signature of candidate)

(Date)

5. The full and public disclosure of financial interests required by s. 8, Art. II of the State Constitution or the statement of financial interests required by s. 112.3145, whichever is applicable. *A public officer who has filed the full and public disclosure or statement of financial interests with the Commission on Ethics or the supervisor of elections prior to qualifying for office may file a copy of that disclosure at the time of qualifying.*

(b) If the filing officer receives qualifying papers that do not include all items as required by paragraph (a) prior to the last day of qualifying, the filing officer shall make a reasonable effort to notify the candidate of the missing or incomplete items and shall inform the candidate that all required items must be received by the close of qualifying. A candidate's name as it is to appear on the ballot may not be changed after the end of qualifying.

(6) *Notwithstanding the qualifying period prescribed in this section, a filing officer may accept and hold qualifying papers submitted not earlier than 14 days prior to the beginning of the qualifying period, to be processed and filed during the qualifying period.*

Section 66. Section 105.035, Florida Statutes, is amended to read:

105.035 *Petition process* ~~Alternative method~~ of qualifying for certain judicial offices and the office of school board member.—

(1) A person seeking to qualify for election to the office of circuit judge or county court judge or the office of school board member may qualify for election to such office by means of the petitioning process prescribed in this section. A person qualifying by this *petition process is alternative method* shall not be required to pay the qualifying fee required by this chapter. ~~A person using this petitioning process shall file an oath with the officer before whom the candidate would qualify for the office stating that he or she intends to qualify by this alternative method for the office sought. Such oath shall be filed at any time after the first Tuesday after the first Monday in January of the year in which the election is held, but prior to the 21st day preceding the first day of the qualifying period for the office sought. The form of such oath shall be prescribed by the Division of Elections. No signatures shall be obtained until the person has filed the oath prescribed in this subsection.~~

(2) ~~The~~ Upon receipt of a written oath from a candidate, the ~~qualifying officer shall provide the candidate with a petition format shall be~~ prescribed by the Division of Elections ~~and shall to be used by the~~ candidate to reproduce petitions for circulation. If the candidate is running for an office ~~that which~~ will be grouped on the ballot with two or more similar offices to be filled at the same election, the candidate's petition must indicate, prior to the obtaining of registered electors' signatures, for which group or district office the candidate is running.

(3) Each candidate for election to a judicial office or the office of school board member shall obtain the signature of a number of qualified electors equal to at least 1 percent of the total number of registered electors of the district, circuit, county, or other geographic entity represented by the office sought as shown by the compilation by the Department of State for the last preceding general election. A separate petition shall be circulated for each candidate availing himself or herself of the provisions of this section. *Signatures may not be obtained until the candidate has filed the appointment of campaign treasurer and designation of campaign depository pursuant to s. 106.021.*

(4)(a) Each candidate seeking to qualify for election to the office of circuit judge or the office of school board member from a multicounty school district pursuant to this section shall file a separate petition from each county from which signatures are sought. Each petition shall be submitted, prior to noon of the ~~28th~~ ~~21st~~ day preceding the first day of the qualifying period for the office sought, to the supervisor of elections of the county for which such petition was circulated. Each supervisor of elections to whom a petition is submitted shall check the signatures on the petition to verify their status as electors of that county and of the geographic area represented by the office sought. ~~No later than the seventh day before~~ ~~Prior to~~ the first date for qualifying, the supervisor shall certify the number shown as registered electors and submit such certification to the Division of Elections. The division shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate. If the required number of signatures has been obtained, the candidate shall, during the time prescribed for qualifying for office, submit a copy of such notice and file his or her qualifying papers and oath prescribed in s. 105.031 with the Division of Elections. Upon receipt of the copy of such notice and qualifying papers, the division shall certify the name of the candidate to the appropriate supervisor or supervisors of elections as having qualified for the office sought.

(b) Each candidate seeking to qualify for election to the office of county court judge or the office of school board member from a single county school district pursuant to this section shall submit his or her petition, prior to noon of the ~~28th~~ ~~21st~~ day preceding the first day of the qualifying period for the office sought, to the supervisor of elections of the county for which such petition was circulated. The supervisor shall check the signatures on the petition to verify their status as electors of the county and of the geographic area represented by the office sought. ~~No later than the seventh day before~~ ~~Prior to~~ the first date for qualifying, the supervisor shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate. If the required number of signatures has been obtained, the candidate shall, during the time prescribed for qualifying for office, submit a copy of such notice and file his or her qualifying papers and oath prescribed in s. 105.031 with the qualifying officer. Upon receipt of the copy of such notice and qualifying papers, such candidate shall be entitled to have his or her name printed on the ballot.

Section 67. Section 106.022, Florida Statutes, is created to read:

106.022 Appointment of a registered agent; duties.—

(1) Each political committee, committee of continuous existence, or electioneering communications entity shall have and continuously maintain in this state a registered office and a registered agent and must file with the division a statement of appointment for the registered office and registered agent. The statement of appointment must:

(a) Provide the name of the registered agent and the street address and phone number for the registered office;

(b) Identify the entity for whom the registered agent serves;

(c) Designate the address the registered agent wishes to use to receive mail;

(d) Include the entity's undertaking to inform the division of any change in such designated address;

(e) Provide for the registered agent's acceptance of the appointment, which must confirm that the registered agent is familiar with and accepts the obligations of the position as set forth in this section; and

(f) Contain the signature of the registered agent and the entity engaging the registered agent.

(2) An entity may change its appointment of registered agent and registered office under this section by executing a written statement of change that identifies the former registered agent and registered address and also satisfies all of the requirements of subsection (1).

(3) A registered agent may resign his or her appointment as registered agent by executing a written statement of resignation and filing it with the division. An entity without a registered agent may not make expenditures or accept contributions until it files a written statement of change as required in subsection (2).

Section 68. Subsection (6) of section 106.08, Florida Statutes, is amended to read:

106.08 Contributions; limitations on.—

(6) A political party may not accept any contribution which has been specifically designated for the partial or exclusive use of a particular candidate. Any contribution so designated must be returned to the contributor and may not be used or expended by or on behalf of the candidate. Also, a political party may not accept any in-kind contribution that fails to provide a direct benefit to the political party. A "direct benefit" includes, but is not limited to, fundraising or furthering the objectives of the political party.

Section 69. Subsection (6) of section 106.24, Florida Statutes, is amended to read:

106.24 Florida Elections Commission; membership; powers; duties.—

(6) There is hereby established in the State Treasury an Elections Commission Trust Fund to be utilized by the Division of Elections and the Florida Elections Commission in order to carry out their duties pursuant to ss. 106.24-106.28. The trust fund may also be used by the Secretary of State division, pursuant to his or her authority under s. 97.012(14) s. 106.22(11), to provide rewards for information leading to criminal convictions related to voter registration fraud, voter fraud, and vote scams.

Section 70. Subsection (6) of section 106.141, Florida Statutes, is amended to read:

106.141 Disposition of surplus funds by candidates.—

(6) Prior to disposing of funds pursuant to subsection (4) or transferring funds into an office account pursuant to subsection (5), any candidate who filed an oath stating that he or she was unable to pay the election assessment or fee for verification of petition signatures without imposing an undue burden on his or her personal resources or on resources otherwise available to him or her, or who filed both such oaths, or who qualified by the petition process alternative method and was not required to pay an election assessment, shall reimburse the state or local

governmental entity, whichever is applicable, for such waived assessment or fee or both. Such reimbursement shall be made first for the cost of petition verification and then, if funds are remaining, for the amount of the election assessment. If there are insufficient funds in the account to pay the full amount of either the assessment or the fee or both, the remaining funds shall be disbursed in the above manner until no funds remain. All funds disbursed pursuant to this subsection shall be remitted to the qualifying officer. Any reimbursement for petition verification costs which are reimbursable by the state shall be forwarded by the qualifying officer to the state for deposit in the General Revenue Fund. All reimbursements for the amount of the election assessment shall be forwarded by the qualifying officer to the Department of State for deposit in the General Revenue Fund.

Section 71. Section 98.122, Florida Statutes, is transferred and renumbered as section 106.165, Florida Statutes.

Section 72. Section 106.22, Florida Statutes, is amended to read:

106.22 Duties of the Division of Elections.—It is the duty of the Division of Elections to:

(1) Prescribe forms for statements and other information required to be filed by this chapter. Such forms shall be furnished by the Department of State or office of the supervisor of elections to persons required to file such statements and information with such agency.

(2) Prepare and publish manuals or brochures setting forth recommended uniform methods of bookkeeping and reporting, and including appropriate portions of the election code, for use by persons required by this chapter to file statements.

(3) Develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter.

(4) Preserve statements and other information required to be filed with the division pursuant to this chapter for a period of 10 years from date of receipt.

(5) Prepare and publish such reports as it may deem appropriate.

(6) Make, from time to time, audits and field investigations with respect to reports and statements filed under the provisions of this chapter and with respect to alleged failures to file any report or statement required under the provisions of this chapter. The division shall conduct a postelection audit of the campaign accounts of all candidates receiving contributions from the Election Campaign Financing Trust Fund.

(7) Report to the Florida Elections Commission any failure to file a report or information required by this chapter or any apparent violation of this chapter.

(8) Employ such personnel or contract for such services as are necessary to adequately carry out the intent of this chapter.

(9) Prescribe rules and regulations to carry out the provisions of this chapter. Such rules shall be prescribed pursuant to chapter 120.

~~(10) Make an annual report to the President of the Senate and the Speaker of the House of Representatives concerning activities of the division and recommending improvements in the election code.~~

~~(11) Conduct preliminary investigations into any irregularities or fraud involving voter registration or voting and report its findings to the state attorney for the judicial circuit in which the alleged violation occurred for prosecution, where warranted. The Department of State may prescribe by rule requirements for filing a complaint of voter fraud and for investigating any such complaint.~~

~~(10)(12) Conduct random audits with respect to reports and statements filed under this chapter and with respect to alleged failure to file any reports and statements required under this chapter.~~

Section 73. Subsection (1) of section 16.56, Florida Statutes, is amended to read:

16.56 Office of Statewide Prosecution.—

(1) There is created in the Department of Legal Affairs an Office of Statewide Prosecution. The office shall be a separate "budget entity" as that term is defined in chapter 216. The office may:

- (a) Investigate and prosecute the offenses of:
 1. Bribery, burglary, criminal usury, extortion, gambling, kidnapping, larceny, murder, prostitution, perjury, robbery, carjacking, and home-invasion robbery;
 2. Any crime involving narcotic or other dangerous drugs;
 3. Any violation of the provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(1)(a), providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;
 4. Any violation of the provisions of the Florida Anti-Fencing Act;
 5. Any violation of the provisions of the Florida Antitrust Act of 1980, as amended;
 6. Any crime involving, or resulting in, fraud or deceit upon any person;
 7. Any violation of s. 847.0135, relating to computer pornography and child exploitation prevention, or any offense related to a violation of s. 847.0135;
 8. Any violation of the provisions of chapter 815;
 9. Any criminal violation of part I of chapter 499;
 10. Any violation of the provisions of the Florida Motor Fuel Tax Relief Act of 2004; or
 11. Any criminal violation of s. 409.920 or s. 409.9201; or
 12. Any crime involving voter registration, voting, or candidate or issue petition activities;

or any attempt, solicitation, or conspiracy to commit any of the crimes specifically enumerated above. The office shall have such power only when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits.

(b) Upon request, cooperate with and assist state attorneys and state and local law enforcement officials in their efforts against organized crimes.

(c) Request and receive from any department, division, board, bureau, commission, or other agency of the state, or of any political subdivision thereof, cooperation and assistance in the performance of its duties.

Section 74. Subsection (5) of section 119.07, Florida Statutes, is amended to read:

119.07 Inspection and copying of records; photographing public records; fees; exemptions.—

(5) When ballots are produced under this section for inspection or examination, no persons other than the supervisor of elections or the supervisor's employees shall touch the ballots. *If the ballots are being examined before the end of the contest period in s. 102.168*, the supervisor of elections shall make a reasonable effort to notify all candidates by telephone or otherwise of the time and place of the inspection or examination. All such candidates, or their representatives, shall be allowed to be present during the inspection or examination.

Section 75. Subsection (3) of section 145.09, Florida Statutes, is amended to read:

145.09 Supervisor of elections.—

(3)(a) There shall be an additional \$2,000 per year special qualification salary for each supervisor of elections who has met the certification requirements established by the Division of Elections of the Department of State. *The Department of State shall adopt rules to establish the certification requirements.* Any supervisor who is certified during a calendar year shall receive in that year a pro rata share of the special qualification salary based on the remaining period of the year.

(b) In order to qualify for the special qualification salary described in paragraph (a), the supervisor must complete the requirements established by the Division of Elections within 6 years after first taking office.

(c) After a supervisor meets the requirements of paragraph (a), in order to remain certified the supervisor shall thereafter be required to complete each year a course of continuing education as prescribed by the division.

Section 76. Effective July 1, 2005, section 104.0615, Florida Statutes, is created to read:

104.0615 Voter intimidation or suppression prohibited; criminal penalties.—

(1) *This section may be cited as the "Voter Protection Act."*

(2) *A person may not directly or indirectly use or threaten to use force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel an individual to:*

(a) *Vote or refrain from voting;*

(b) *Vote or refrain from voting for any particular individual or ballot measure;*

(c) *Refrain from registering to vote; or*

(d) *Refrain from acting as a legally authorized election official or poll watcher.*

(3) *A person may not knowingly use false information to:*

(a) *Challenge an individual's right to vote;*

(b) *Induce or attempt to induce an individual to refrain from voting or registering to vote; or*

(c) *Induce or attempt to induce an individual to refrain from acting as a legally authorized election official or poll watcher.*

(4) *A person may not knowingly destroy, mutilate, or deface a voter registration form or election ballot or obstruct or delay the delivery of a voter registration form or election ballot.*

(5) *A person who violates subsection (2), subsection (3), or subsection (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 77. Sections 98.095, 98.0979, 98.181, 98.481, 101.253, 101.635, 102.061, 106.085, and 106.144, Florida Statutes, are repealed.

Section 78. *If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.*

Section 79. Except as otherwise expressly provided in this act and except for this section, which shall take effect July 1, 2005, this act shall take effect January 1, 2006.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to elections; amending s. 97.012, F.S.; authorizing the Secretary of State to investigate voter fraud; authorizing the Department of State to adopt rules; amending s. 97.021, F.S.; defining the term "marksense ballots"; defining the terms "early voting area," "early voting site," and "third-party voter registration organization"; amending s. 97.051, F.S.; revising the oath required upon registering to vote; amending s. 97.052, F.S.; revising the contents of the uniform

statewide voter registration application; amending s. 97.053, F.S.; revising provisions governing the acceptance of voter registration applications by the supervisor of elections; requiring that an applicant complete a registration application before the date of book closing in order to be eligible to vote in that election; revising the information required on the registration application; amending s. 97.055, F.S.; limiting the updates that may be made to registration information following book closing; creating s. 97.0575, F.S.; providing requirements for third-party voter registration organizations that collect voter-registration applications; providing fines for failure to deliver applications as required; authorizing the Division of Elections to adopt rules to administer provisions governing third-party voter registration organizations; amending s. 97.071, F.S.; specifying the information to be included on the registration identification card; amending s. 98.045, F.S.; deleting a cross-reference; amending s. 98.077, F.S.; revising the procedures for updating a voter signature used to verify an absentee ballot or provisional ballot; amending s. 99.061, F.S.; providing for qualifying for nomination or election by the petition process; requiring the filing of statements of financial interest; requiring that a qualifying officer accept certain qualifying papers filed before the qualifying period; amending s. 99.063, F.S.; providing filing requirements for public officers; amending s. 99.092, F.S., relating to qualifying fees; clarifying provisions governing qualifying for nomination or election by the petition process to conform to changes made by the act; amending s. 99.095, F.S.; revising the requirements for qualifying as a candidate by a petition process in lieu of paying a qualifying fee and party assessment; providing requirements for submitting petitions and certifications; requiring that the division or supervisor of elections, as applicable, determine whether the required number of signatures has been obtained; amending s. 99.0955, F.S.; providing procedures for a candidate having no party affiliation to qualify by the petition process; amending s. 99.096, F.S.; revising the procedures for a minor political party to submit nominated candidates to be on the general election ballot; providing for candidates to qualify by the petition process; amending s. 99.09651, F.S., relating to signature requirements for ballot position; conforming provisions to changes made by the act; amending s. 100.011, F.S.; requiring that an elector in line at the time the polls close be allowed to vote; amending s. 100.101, F.S.; revising the circumstances under which a special election or primary is held; amending s. 100.111, F.S.; revising requirements for filling a vacancy in a nomination; requiring that ballots cast for a former nominee be counted for the person designated to replace the nominee under certain circumstances; amending s. 100.141, F.S., relating to the notice of a special election; conforming provisions to changes made by the act; amending s. 101.031, F.S.; revising the Voter's Bill of Rights to authorize a provisional ballot if a person's identity is in question; amending s. 101.043, F.S.; revising the procedures for a voter to provide identification when voting; amending s. 101.048, F.S.; providing for certain additional voters to cast provisional ballots; providing requirements for presenting evidence in support of a person's right to vote; requiring that the county canvassing board count such a ballot unless it determines by a preponderance of the evidence that the person was not entitled to vote; requiring that a person casting a provisional ballot be informed of certain rights; amending s. 101.049, F.S.; providing requirements for ballots for persons with disabilities; amending s. 101.051, F.S.; prohibiting certain solicitations to provide assistance to an elector; providing a penalty; authorizing an elector to request that a person other than an election official provide him or her with assistance in voting; providing for the form of the oath to be signed; amending s. 101.111, F.S.; revising the requirements for challenging an elector's right to vote; providing a penalty for filing a frivolous challenge; amending s. 101.131, F.S.; revising requirements for poll watchers; authorizing certain political committees to have poll watchers; prohibiting a poll watcher from interacting with a voter; providing for poll watchers at early voting areas; amending s. 101.151, F.S.; providing requirements for marksense ballots; amending s. 101.171, F.S.; requiring that a copy of a proposed constitutional amendment be available at voting locations; amending s. 101.294, F.S.; prohibiting a vendor of voting equipment from providing systems, components, or system upgrades to a local governing body or supervisor of elections which have not been certified by the Division of Elections; requiring that the vendor provide sworn certification of such equipment; amending s. 101.295, F.S.; providing a penalty for providing voting equipment in violation of ch. 101, F.S.; amending s. 101.49, F.S.; revising the procedures for verifying an elector's signature; amending s. 101.51, F.S.; requiring that an elector occupy a voting booth alone; amending s. 101.5606, F.S., relating to requirements for approval of voting systems, to conform; amending s. 101.5608, F.S., relating to voting by electronic or electromechanical methods, to conform; amending s. 101.5612, F.S.; providing requirements for testing voting equipment; amending s.

101.5614, F.S.; correcting a cross-reference; amending s. 101.572, F.S.; requiring that the supervisor of elections notify the candidates if ballots are examined before the end of the contest; amending s. 101.58, F.S.; authorizing employees of the department to have access to the premises, records, equipment, and staff of the supervisors of elections; amending s. 101.595, F.S.; requiring that certain overvotes and undervotes be reported to the department; amending s. 101.6103, F.S.; authorizing the canvassing board to begin canvassing before the election; prohibiting the release of results before election day; providing a penalty for any early release of results; requiring that a mail ballot that otherwise satisfies the requirements of law for mail ballots be counted even if the elector dies after mailing the ballot but before election day if certain conditions are met; amending s. 101.62, F.S.; revising the requirements for mailing absentee ballots to voters; amending s. 101.64, F.S.; providing for an oath to be provided to persons voting absentee under the Uniformed and Overseas Citizens Absentee Voting Act; amending s. 101.657, F.S.; revising requirements relating to early voting locations; revising the times to begin and end early voting and the times for opening and closing the early voting sites each day; providing for uniformity of county early voting sites; requiring any person in line at the closing of an early voting site to be allowed to vote; providing for early voting in municipal and special district elections; requiring supervisors to provide certain information in electronic format to the Division of Elections; requiring that an early voting ballot that otherwise satisfies the requirements of law for early voting ballots be counted even if the elector dies on or before election day; amending s. 101.663, F.S.; providing for certain persons to vote absentee after moving to another state; amending s. 101.68, F.S.; prohibiting changing a voter's certificate after the absentee ballot is received by the supervisor; providing that electors who die on or before election day and have cast an absentee ballot shall remain on the voter registration books until the election is certified; providing that the ballot of an elector who casts an absentee ballot shall be counted even if the elector dies on or before election day if certain conditions are met; amending s. 101.69, F.S.; prohibiting a voter from voting another ballot after casting an absentee ballot; providing for a provisional ballot under certain circumstances; amending s. 101.6923, F.S.; providing for the form of the printed instructions on an absentee ballot; amending s. 101.694, F.S.; providing requirements for absentee envelopes printed for voters voting under the Uniformed and Overseas Citizens Absentee Voting Act; amending s. 101.697, F.S.; requiring the Department of State to determine whether secure electronic ballots may be provided for overseas voters; requiring that the department adopt rules for accepting overseas ballots; amending s. 102.012, F.S.; requiring the supervisor of elections to appoint an election board before any election; providing duties of the board; amending s. 102.014, F.S.; requiring that the Division of Elections develop a uniform training curriculum for poll workers; amending s. 102.031, F.S.; providing requirements for maintaining order at early voting areas; requiring the designation of a no-solicitation zone; prohibiting photography in a polling room or early voting area; amending s. 102.071, F.S.; revising requirements for tabulating votes; amending s. 102.111, F.S.; providing for corrections to be made to the official election returns; amending s. 102.112, F.S.; requiring that a return contain a certification by the canvassing board; authorizing the Department of State to correct typographical errors; amending s. 102.141, F.S.; revising requirements for the canvassing boards in submitting returns to the department; providing requirements for the report filed by the canvassing board; requiring the department to adopt rules for filing results and statistical information; amending s. 102.166, F.S.; revising the circumstances under which a manual recount may be ordered; amending s. 102.168, F.S.; requiring that complaints be filed with the board responsible for certifying the election results; specifying the parties to an action who may contest an election or nomination; amending s. 103.021, F.S.; providing for nomination of presidential electors by the state executive committee of each political party; defining the term "national party" for purposes of nominating a candidate for President and Vice President of the United States; amending ss. 103.051 and 103.061, F.S.; specifying duties of the presidential electors; amending s. 103.121, F.S.; revising powers and duties of executive committees to conform to changes made by the act; amending s. 105.031, F.S.; providing for public officers to file a statement of financial interests at the time of qualifying; requiring that a filing officer accept certain qualifying papers filed before the qualifying period; amending s. 105.035, F.S.; revising procedures for qualifying for certain judicial offices and the office of school board member; prohibiting a candidate from obtaining signatures until appointing a campaign treasurer and designating a campaign depository; revising the requirements for the supervisor of elections with respect to certifying signatures; creating s. 106.022, F.S.; requiring that a political committee, committee of continuous existence,

or electioneering communications entity maintain a registered office and registered agent; providing requirements for the statement of appointment; prohibiting political parties from accepting certain in-kind contributions; amending s. 106.24, F.S.; clarifying the duties of the Secretary of State; amending s. 106.141, F.S., relating to the disposition of surplus funds; conforming provisions to changes made by the act; transferring and renumbering s. 98.122, F.S., relating to the use of closed captioning and descriptive narrative in television broadcasts; amending s. 106.22, F.S.; eliminating certain duties of the Division of Elections with respect to reports to the Legislature and preliminary investigations; amending s. 16.56, F.S.; authorizing the Office of Statewide Prosecution to investigate and prosecute crimes involving voter registration, voting, or certain petition activities; amending s. 119.07, F.S.; clarifying requirements of the supervisor of elections with respect to notifying candidates of the inspection of ballots; amending s. 145.09, F.S.; requiring that the Department of State adopt rules establishing certification requirements for supervisors of elections; creating s. 104.0615, F.S.; providing a short title; prohibiting a person from using or threatening to use force, violence, or intimidation to induce or compel an individual to vote or refrain from voting, to refrain from registering to vote, or to refrain from acting as an election official or poll watcher; prohibiting a person from knowingly using false information to challenge an individual's right to vote, to induce an individual to refrain from registering to vote, or to induce or attempt to induce an individual to refrain from acting as an election official or poll watcher; prohibiting a person from knowingly destroying, mutilating, or defacing a voter registration form or election ballot or obstructing or delaying the delivery of a voter registration form or election ballot; providing criminal penalties; repealing ss. 98.095, 98.0979, 98.181, 98.481, 101.253, 101.635, 102.061, 106.085, and 106.144, F.S., relating to inspections of county registers and the voter database, indexes and records, challenges to elections, the printing and distribution of ballots, duties of the election board, expenditures, and endorsements or opposition by certain groups; providing for severability; providing effective dates.

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

Amendment 1A (174070)—On page 18, lines 16-20, delete those lines and insert: qualify for nomination or election to federal office or to the office of the state attorney or the public defender; and noon of the 50th day prior to the first primary, but not later than noon of the 46th day prior to the date of the first primary, for persons seeking to qualify for nomination or election to a state or multicounty district office, other than the office of the state attorney or the public defender.

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **HB 1567** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Fasano—

CS for CS for SB 1660—A bill to be entitled An act relating to health insurance; amending s. 408.05, F.S.; changing the due date for a report from the Agency for Health Care Administration regarding the State Center for Health Statistics; amending s. 408.909, F.S.; providing an additional criterion for the Office of Insurance Regulation to disapprove or withdraw approval of health flex plans; amending s. 627.413, F.S.; authorizing insurers and health maintenance organizations to offer policies or contracts providing for a high-deductible plan meeting federal requirements and in conjunction with a health savings account; amending s. 627.6487, F.S.; revising the definition of the term “eligible individual” for purposes of obtaining coverage in the Florida Health Insurance Plan; amending s. 627.64872, F.S.; revising definitions; changing references to the Director of the Office of Insurance Regulation to the Commissioner of Insurance Regulation; deleting obsolete language; providing additional eligibility criteria; reducing premium rate limitations; revising requirements for sources of additional revenue; authorizing the board to cancel policies under inadequate funding conditions; providing a limitation; specifying a maximum provider reimbursement rate; requiring licensed providers to accept assignment of plan benefits and consider certain payments as payments in full; amending s. 627.65626, F.S.; providing insurance rebates for healthy lifestyles; amending s. 627.6692, F.S.; extending a time period within which eligible employees may apply for continuation of coverage; amending s. 627.6699, F.S.; revising standards for determining applicability of the Employee Health

Care Access Act; prescribing acts that may be performed by an employer without being considered contributing to premiums or facilitating administration of a policy; authorizing certain carriers to offer coverage to certain employees without being subject to the act under certain circumstances; requiring a carrier who offers such coverage to provide notice to the primary insured prior to cancellation for nonpayment of premium; revising an availability of coverage provision of the Employee Health Care Access Act; including high-deductible plans meeting federal health savings account plan requirements; revising membership of the board of the small employer health reinsurance program; revising certain reporting dates relating to program losses and assessments; requiring the board to advise executive and legislative entities on health insurance issues; providing requirements; amending s. 641.27, F.S.; increasing the interval at which the office examines health maintenance organizations; deleting authorization for the office to accept an audit report from a certified public accountant in lieu of conducting its own examination; increasing an expense limitation; amending s. 641.31, F.S.; providing for an insurance rebate for members in a health wellness program; providing for the rebate to cease under certain conditions; creating a high-deductible health insurance plan study group; specifying membership; requiring the study group to investigate certain issues relating to high-deductible health insurance plans; requiring the group to meet and submit recommendations to the Governor and Legislature; repealing s. 627.6402, F.S., relating to authorized insurance rebates for healthy lifestyles; providing application; providing appropriations; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for CS for SB 1660** to **HB 811**.

Pending further consideration of **CS for CS for SB 1660** as amended, on motion by Senator Fasano, by two-thirds vote **HB 811** was withdrawn from the Committees on Banking and Insurance; and Ways and Means.

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

HB 811—A bill to be entitled An act relating to health insurance; amending s. 627.6699, F.S.; revising application of the act; providing construction; authorizing carriers to offer coverage to certain employees without being subject to the act under certain circumstances; providing requirements; amending s. 408.05, F.S.; changing the due date for a report from the Agency for Health Care Administration regarding the State Center for Health Statistics; changing the release dates for certain data collected by the State Center for Health Statistics; amending s. 408.909, F.S.; providing an additional criterion for the Office of Insurance Regulation to disapprove or withdraw approval of health flex plans; amending s. 627.413, F.S.; authorizing insurers and health maintenance organizations to offer policies or contracts providing for a high deductible plan meeting federal requirements and in conjunction with a health savings account; amending s. 627.638, F.S.; providing certain contract and claim form requirements for direct payment to certain providers of emergency services and care; amending s. 627.6402, F.S.; revising provisions for healthy lifestyle rebates for an individual health insurance policy; providing exceptions; providing application; amending s. 627.6487, F.S.; revising the definition of the term “eligible individual” for purposes of obtaining coverage in the Florida Health Insurance Plan; amending s. 627.64872, F.S.; revising definitions; changing references to the Director of the Office of Insurance Regulation to the Commissioner of Insurance Regulation; deleting obsolete language; providing additional eligibility criteria; reducing premium rate limitations; revising requirements for sources of additional revenue; authorizing the board to cancel policies under inadequate funding conditions; providing a limitation; defining the term “health insurance” for purposes of certain assessments; providing an exclusion; specifying a maximum provider reimbursement rate; requiring licensed providers to accept assignment of plan benefits and consider certain payments as payments in full; authorizing the board to update a required actuarial study; providing study criteria; amending s. 627.65626, F.S.; revising criteria for healthy lifestyle rebates for group and similar health insurance policies provided by health insurers; authorizing group or health insurers to contract with an independent third-party administrator for certain purposes; providing exceptions; providing application; amending s. 627.6692, F.S.; extending a time period within which eligible employees may apply for continuation of coverage; amending s. 627.6699, F.S.; revising availability of coverage provision of the Employee Health Care Access Act; including high deductible plans meeting federal health savings account plan requirements; revising membership of the board of the small employer

health reinsurance program; revising certain reporting dates relating to program losses and assessments; requiring the board to advise executive and legislative entities on health insurance issues; providing requirements; amending s. 641.27, F.S.; increasing the interval at which the office examines health maintenance organizations; deleting authorization for the office to accept an audit report from a certified public accountant in lieu of conducting its own examination; increasing an expense limitation; amending s. 641.31, F.S.; revising criteria for healthy lifestyle rebates for health maintenance organizations; providing exceptions; providing application; providing an appropriation; providing application; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1660** as amended and read the second time by title.

MOTION

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

Senator Fasano moved the following amendment which was adopted:

Amendment 1 (670746)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraph (1) of subsection (3) of section 408.05, Florida Statutes, is amended to read:

408.05 State Center for Health Statistics.—

(3) **COMPREHENSIVE HEALTH INFORMATION SYSTEM.**—In order to produce comparable and uniform health information and statistics, the agency shall perform the following functions:

(1) Develop, in conjunction with the State Comprehensive Health Information System Advisory Council, and implement a long-range plan for making available performance outcome and financial data that will allow consumers to compare health care services. The performance outcomes and financial data the agency must make available shall include, but is not limited to, pharmaceuticals, physicians, health care facilities, and health plans and managed care entities. The agency shall submit the initial plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by *January March 1, 2006 2005*, and shall update the plan and report on the status of its implementation annually thereafter. The agency shall also make the plan and status report available to the public on its Internet website. As part of the plan, the agency shall identify the process and timeframes for implementation, any barriers to implementation, and recommendations of changes in the law that may be enacted by the Legislature to eliminate the barriers. As preliminary elements of the plan, the agency shall:

1. Make available performance outcome and patient charge data collected from health care facilities pursuant to s. 408.061(1)(a) and (2). The agency shall determine which conditions and procedures, performance outcomes, and patient charge data to disclose based upon input from the council. When determining which conditions and procedures are to be disclosed, the council and the agency shall consider variation in costs, variation in outcomes, and magnitude of variations and other relevant information. When determining which performance outcomes to disclose, the agency:

a. Shall consider such factors as volume of cases; average patient charges; average length of stay; complication rates; mortality rates; and infection rates, among others, which shall be adjusted for case mix and severity, if applicable.

b. May consider such additional measures that are adopted by the Centers for Medicare and Medicaid Studies, National Quality Forum, the Joint Commission on Accreditation of Healthcare Organizations, the Agency for Healthcare Research and Quality, or a similar national entity that establishes standards to measure the performance of health care providers, or by other states.

When determining which patient charge data to disclose, the agency shall consider such measures as average charge, average net revenue per adjusted patient day, average cost per adjusted patient day, and average cost per admission, among others.

2. Make available performance measures, benefit design, and premium cost data from health plans licensed pursuant to chapter 627 or

chapter 641. The agency shall determine which performance outcome and member and subscriber cost data to disclose, based upon input from the council. When determining which data to disclose, the agency shall consider information that may be required by either individual or group purchasers to assess the value of the product, which may include membership satisfaction, quality of care, current enrollment or membership, coverage areas, accreditation status, premium costs, plan costs, premium increases, range of benefits, copayments and deductibles, accuracy and speed of claims payment, credentials of physicians, number of providers, names of network providers, and hospitals in the network. Health plans shall make available to the agency any such data or information that is not currently reported to the agency or the office.

3. Determine the method and format for public disclosure of data reported pursuant to this paragraph. The agency shall make its determination based upon input from the Comprehensive Health Information System Advisory Council. At a minimum, the data shall be made available on the agency's Internet website in a manner that allows consumers to conduct an interactive search that allows them to view and compare the information for specific providers. The website must include such additional information as is determined necessary to ensure that the website enhances informed decisionmaking among consumers and health care purchasers, which shall include, at a minimum, appropriate guidance on how to use the data and an explanation of why the data may vary from provider to provider. The data specified in subparagraph 1. shall be released no later than *January 1, 2006, for the reporting of infection rates, and no later than October 1, 2005, for mortality rates and complication rates March 1, 2005*. The data specified in subparagraph 2. shall be released no later than *October March 1, 2006*.

Section 2. Paragraph (b) of subsection (3) of section 408.909, Florida Statutes, is amended to read:

408.909 Health flex plans.—

(3) **PROGRAM.**—The agency and the office shall each approve or disapprove health flex plans that provide health care coverage for eligible participants. A health flex plan may limit or exclude benefits otherwise required by law for insurers offering coverage in this state, may cap the total amount of claims paid per year per enrollee, may limit the number of enrollees, or may take any combination of those actions. A health flex plan offering may include the option of a catastrophic plan supplementing the health flex plan.

(b) The office shall develop guidelines for the review of health flex plan applications and provide regulatory oversight of health flex plan advertisement and marketing procedures. The office shall disapprove or shall withdraw approval of plans that:

1. Contain any ambiguous, inconsistent, or misleading provisions or any exceptions or conditions that deceptively affect or limit the benefits purported to be assumed in the general coverage provided by the health flex plan;

2. Provide benefits that are unreasonable in relation to the premium charged or contain provisions that are unfair or inequitable or contrary to the public policy of this state, that encourage misrepresentation, or that result in unfair discrimination in sales practices; ~~or~~

3. Cannot demonstrate that the health flex plan is financially sound and that the applicant is able to underwrite or finance the health care coverage provided; *or*

4. *Cannot demonstrate that the applicant and its management are in compliance with the standards required under s. 624.404(3).*

Section 3. Subsection (6) is added to section 627.413, Florida Statutes, to read:

627.413 Contents of policies, in general; identification.—

(6) *Notwithstanding any other provision of the Florida Insurance Code that is in conflict with federal requirements for a health savings account qualified high-deductible health plan, an insurer, or a health maintenance organization subject to part I of chapter 641, which is authorized to issue health insurance in this state may offer for sale an individual or group policy or contract that provides for a high-deductible plan that meets the federal requirements of a health savings account plan and which is offered in conjunction with a health savings account.*

Section 4. Subsection (2) of section 627.638, Florida Statutes, is amended to read:

627.638 Direct payment for hospital, medical services.—

(2) Whenever, in any health insurance claim form, an insured specifically authorizes payment of benefits directly to any recognized hospital, ~~or~~ physician, or dentist, the insurer shall make such payment to the designated provider of such services, unless otherwise provided in the insurance contract. *The insurance contract may not prohibit, and claims forms must provide an option for, the payment of benefits directly to a licensed hospital, physician, or dentist for care provided pursuant to s. 395.1041. The insurer may require written attestation of assignment of benefits. Payment to the provider from the insurer may not be more than the amount that the insurer would otherwise have paid without the assignment.*

Section 5. Section 627.6402, Florida Statutes, is amended to read:

627.6402 Insurance rebates for healthy lifestyles.—

(1) Any rate, rating schedule, or rating manual for an individual health insurance policy filed with the office ~~may shall~~ provide for an appropriate rebate of premiums paid in the last ~~calendar~~ year when the individual covered by such plan is enrolled in and maintains participation in any health wellness, maintenance, or improvement program approved by the health plan. *The rebate may be based on premiums paid in the last calendar year or the last policy year.* The individual must provide evidence of demonstrative maintenance or improvement of the individual's health status as determined by assessments of agreed-upon health status indicators between the individual and the health insurer, including, but not limited to, reduction in weight, body mass index, and smoking cessation. Any rebate provided by the health insurer is presumed to be appropriate unless credible data demonstrates otherwise, *or unless such rebate program requires the insured to incur costs to qualify for the rebate which equal or exceed the value of the rebate, but in no event shall the rebate not* exceed 10 percent of paid premiums.

(2) The premium rebate authorized by this section shall be effective for an insured on an annual basis, unless the individual fails to maintain or improve his or her health status while participating in an approved wellness program, or credible evidence demonstrates that the individual is not participating in the approved wellness program.

Section 6. Section 627.65626, Florida Statutes, is amended to read:

627.65626 Insurance rebates for healthy lifestyles.—

(1) Any rate, rating schedule, or rating manual for a health insurance policy *that provides creditable coverage as defined in s. 627.6561(5)* filed with the office shall provide for an appropriate rebate of premiums paid in the last *policy year, contract year, or* calendar year when the majority of members of a health plan have enrolled and maintained participation in any health wellness, maintenance, or improvement program offered by the *group policyholder and health plan employer.* *The rebate may be based upon premiums paid in the last calendar year or policy year.* The ~~group employer~~ must provide evidence of demonstrative maintenance or improvement of the enrollees' health status as determined by assessments of agreed-upon health status indicators between the ~~policyholder employer~~ and the health insurer, including, but not limited to, reduction in weight, body mass index, and smoking cessation. *The group or health insurer may contract with a third-party administrator to assemble and report the health status required in this subsection between the policyholder and the health insurer.* Any rebate provided by the health insurer is presumed to be appropriate unless credible data demonstrates otherwise, *or unless the rebate program requires the insured to incur costs to qualify for the rebate which equal or exceeds the value of the rebate, but the rebate may shall* not exceed 10 percent of paid premiums.

(2) The premium rebate authorized by this section shall be effective for an insured on an annual basis unless the number of participating members on the policy renewal anniversary ~~employees~~ becomes less than the majority of the members ~~employees~~ eligible for participation in the wellness program.

Section 7. Paragraphs (d) and (j) of subsection (5) of section 627.6692, Florida Statutes, are amended to read:

627.6692 Florida Health Insurance Coverage Continuation Act.—

(5) CONTINUATION OF COVERAGE UNDER GROUP HEALTH PLANS.—

(d)1. A qualified beneficiary must give written notice to the insurance carrier within 63 ~~30~~ days after the occurrence of a qualifying event. Unless otherwise specified in the notice, a notice by any qualified beneficiary constitutes notice on behalf of all qualified beneficiaries. The written notice must inform the insurance carrier of the occurrence and type of the qualifying event giving rise to the potential election by a qualified beneficiary of continuation of coverage under the group health plan issued by that insurance carrier, except that in cases where the covered employee has been involuntarily discharged, the nature of such discharge need not be disclosed. The written notice must, at a minimum, identify the employer, the group health plan number, the name and address of all qualified beneficiaries, and such other information required by the insurance carrier under the terms of the group health plan or the commission by rule, to the extent that such information is known by the qualified beneficiary.

2. Within 14 days after the receipt of written notice under subparagraph 1., the insurance carrier shall send each qualified beneficiary by certified mail an election and premium notice form, approved by the office, which form must provide for the qualified beneficiary's election or nonelection of continuation of coverage under the group health plan and the applicable premium amount due after the election to continue coverage. This subparagraph does not require separate mailing of notices to qualified beneficiaries residing in the same household, but requires a separate mailing for each separate household.

(j) Notwithstanding paragraph (b), if a qualified beneficiary in the military reserve or National Guard has elected to continue coverage and is thereafter called to active duty and the coverage under the group plan is terminated by the beneficiary or the carrier due to the qualified beneficiary becoming eligible for TRICARE (the health care program provided by the United States Defense Department), the 18-month period or such other applicable maximum time period for which the qualified beneficiary would otherwise be entitled to continue coverage is tolled during the time that he or she is covered under the TRICARE program. Within 63 ~~30~~ days after the federal TRICARE coverage terminates, the qualified beneficiary may elect to continue coverage under the group health plan, retroactively to the date coverage terminated under TRICARE, for the remainder of the 18-month period or such other applicable time period, subject to termination of coverage at the earliest of the conditions specified in paragraph (b).

Section 8. Paragraph (a) of subsection (4), paragraph (c) of subsection (5), and paragraphs (b) and (j) of subsection (11) of section 627.6699, Florida Statutes, are amended, and paragraph (o) is added to subsection (11) of that section, to read:

627.6699 Employee Health Care Access Act.—

(4) APPLICABILITY AND SCOPE.—

(a)1. This section applies to a health benefit plan that provides coverage to employees of a small employer in this state, unless the coverage ~~policy~~ is marketed directly to the individual employee, and the employer does not contribute directly or indirectly to ~~participate in the collection or distribution of premiums or~~ facilitate the administration of the coverage ~~policy~~ in any manner. *For the purposes of this subparagraph, an employer is not deemed to be contributing to the premiums or facilitating the administration of coverage if the employer does not contribute to the premium and merely collects the premiums for coverage from an employee's wages or salary through payroll deduction and submits payment for the premiums of one or more employees in a lump sum to a carrier.*

2. A carrier authorized to issue group or individual health benefit plans under this chapter or chapter 641 may offer coverage as described in this subparagraph to individual employees without being subject to this section if the employer has not had a group health benefit plan in place in the prior 6 months. A carrier authorized to issue group or individual health benefit plans under this chapter or chapter 641 may offer coverage as described in this subparagraph to employees that are not eligible employees as defined in this section, whether or not the small employer has a group health benefit plan in place. A carrier that offers coverage as described in this subparagraph must provide a cancellation

notice to the primary insured at least 10 days prior to canceling the coverage for nonpayment of premium.

(5) AVAILABILITY OF COVERAGE.—

(c) Every small employer carrier must, as a condition of transacting business in this state:

1. Offer and issue all small employer health benefit plans on a guaranteed-issue basis to every eligible small employer, with 2 to 50 eligible employees, that elects to be covered under such plan, agrees to make the required premium payments, and satisfies the other provisions of the plan. A rider for additional or increased benefits may be medically underwritten and may only be added to the standard health benefit plan. The increased rate charged for the additional or increased benefit must be rated in accordance with this section.

2. In the absence of enrollment availability in the Florida Health Insurance Plan, offer and issue basic and standard small employer health benefit plans and a high-deductible plan that meets the requirements of a health savings account plan or health reimbursement account as defined by federal law, on a guaranteed-issue basis, during a 31-day open enrollment period of August 1 through August 31 of each year, to every eligible small employer, with fewer than two eligible employees, which small employer is not formed primarily for the purpose of buying health insurance and which elects to be covered under such plan, agrees to make the required premium payments, and satisfies the other provisions of the plan. Coverage provided under this subparagraph shall begin on October 1 of the same year as the date of enrollment, unless the small employer carrier and the small employer agree to a different date. A rider for additional or increased benefits may be medically underwritten and may only be added to the standard health benefit plan. The increased rate charged for the additional or increased benefit must be rated in accordance with this section. For purposes of this subparagraph, a person, his or her spouse, and his or her dependent children constitute a single eligible employee if that person and spouse are employed by the same small employer and either that person or his or her spouse has a normal work week of less than 25 hours. Any right to an open enrollment of health benefit coverage for groups of fewer than two employees, pursuant to this section, shall remain in full force and effect in the absence of the availability of new enrollment into the Florida Health Insurance Plan.

3. This paragraph does not limit a carrier's ability to offer other health benefit plans to small employers if the standard and basic health benefit plans are offered and rejected.

(11) SMALL EMPLOYER HEALTH REINSURANCE PROGRAM.—

(b)1. The program shall operate subject to the supervision and control of the board.

2. Effective upon this act becoming a law, the board shall consist of the director of the office or his or her designee, who shall serve as the chairperson, and 13 additional members who are representatives of carriers and insurance agents and are appointed by the director of the office and serve as follows:

a. Five members shall be representatives of health insurers licensed under chapter 624 or chapter 641. Two members shall be agents who are actively engaged in the sale of health insurance. Four members shall be employers or representatives of employers. One member shall be a person covered under an individual health insurance policy issued by a licensed insurer in this state. One member shall represent the Agency for Health Care Administration and shall be recommended by the Secretary of Health Care Administration. ~~The director of the office shall include representatives of small employer carriers subject to assessment under this subsection. If two or more carriers elect to be risk-assuming carriers, the membership must include at least two representatives of risk-assuming carriers; if one carrier is risk-assuming, one member must be a representative of such carrier. At least one member must be a carrier who is subject to the assessments, but is not a small employer carrier. Subject to such restrictions, at least five members shall be selected from individuals recommended by small employer carriers pursuant to procedures provided by rule of the commission. Three members shall be selected from a list of health insurance carriers that issue individual health insurance policies. At least two of the three members selected must be reinsuring carriers. Two members shall be selected from a list~~

~~of insurance agents who are actively engaged in the sale of health insurance.~~

b. A member appointed under this subparagraph shall serve a term of 4 years and shall continue in office until the member's successor takes office, except that, in order to provide for staggered terms, the director of the office shall designate two of the initial appointees under this subparagraph to serve terms of 2 years and shall designate three of the initial appointees under this subparagraph to serve terms of 3 years.

3. The director of the office may remove a member for cause.

4. Vacancies on the board shall be filled in the same manner as the original appointment for the unexpired portion of the term.

~~5. The director of the office may require an entity that recommends persons for appointment to submit additional lists of recommended appointees.~~

(j)1. Before ~~July March~~ 1 of each calendar year, the board shall determine and report to the office the program net loss for the previous year, including administrative expenses for that year, and the incurred losses for the year, taking into account investment income and other appropriate gains and losses.

2. Any net loss for the year shall be recouped by assessment of the carriers, as follows:

a. The operating losses of the program shall be assessed in the following order subject to the specified limitations. The first tier of assessments shall be made against reinsuring carriers in an amount which shall not exceed 5 percent of each reinsuring carrier's premiums from health benefit plans covering small employers. If such assessments have been collected and additional moneys are needed, the board shall make a second tier of assessments in an amount which shall not exceed 0.5 percent of each carrier's health benefit plan premiums. Except as provided in paragraph (n), risk-assuming carriers are exempt from all assessments authorized pursuant to this section. The amount paid by a reinsuring carrier for the first tier of assessments shall be credited against any additional assessments made.

b. The board shall equitably assess carriers for operating losses of the plan based on market share. The board shall annually assess each carrier a portion of the operating losses of the plan. The first tier of assessments shall be determined by multiplying the operating losses by a fraction, the numerator of which equals the reinsuring carrier's earned premium pertaining to direct writings of small employer health benefit plans in the state during the calendar year for which the assessment is levied, and the denominator of which equals the total of all such premiums earned by reinsuring carriers in the state during that calendar year. The second tier of assessments shall be based on the premiums that all carriers, except risk-assuming carriers, earned on all health benefit plans written in this state. The board may levy interim assessments against carriers to ensure the financial ability of the plan to cover claims expenses and administrative expenses paid or estimated to be paid in the operation of the plan for the calendar year prior to the association's anticipated receipt of annual assessments for that calendar year. Any interim assessment is due and payable within 30 days after receipt by a carrier of the interim assessment notice. Interim assessment payments shall be credited against the carrier's annual assessment. Health benefit plan premiums and benefits paid by a carrier that are less than an amount determined by the board to justify the cost of collection may not be considered for purposes of determining assessments.

c. Subject to the approval of the office, the board shall make an adjustment to the assessment formula for reinsuring carriers that are approved as federally qualified health maintenance organizations by the Secretary of Health and Human Services pursuant to 42 U.S.C. s. 300e(c)(2)(A) to the extent, if any, that restrictions are placed on them that are not imposed on other small employer carriers.

3. Before ~~July March~~ 1 of each year, the board shall determine and file with the office an estimate of the assessments needed to fund the losses incurred by the program in the previous calendar year.

4. If the board determines that the assessments needed to fund the losses incurred by the program in the previous calendar year will exceed the amount specified in subparagraph 2., the board shall evaluate the

operation of the program and report its findings, including any recommendations for changes to the plan of operation, to the office within 180 90 days following the end of the calendar year in which the losses were incurred. The evaluation shall include an estimate of future assessments, the administrative costs of the program, the appropriateness of the premiums charged and the level of carrier retention under the program, and the costs of coverage for small employers. If the board fails to file a report with the office within 180 90 days following the end of the applicable calendar year, the office may evaluate the operations of the program and implement such amendments to the plan of operation the office deems necessary to reduce future losses and assessments.

5. If assessments exceed the amount of the actual losses and administrative expenses of the program, the excess shall be held as interest and used by the board to offset future losses or to reduce program premiums. As used in this paragraph, the term "future losses" includes reserves for incurred but not reported claims.

6. Each carrier's proportion of the assessment shall be determined annually by the board, based on annual statements and other reports considered necessary by the board and filed by the carriers with the board.

7. Provision shall be made in the plan of operation for the imposition of an interest penalty for late payment of an assessment.

8. A carrier may seek, from the office, a deferment, in whole or in part, from any assessment made by the board. The office may defer, in whole or in part, the assessment of a carrier if, in the opinion of the office, the payment of the assessment would place the carrier in a financially impaired condition. If an assessment against a carrier is deferred, in whole or in part, the amount by which the assessment is deferred may be assessed against the other carriers in a manner consistent with the basis for assessment set forth in this section. The carrier receiving such deferment remains liable to the program for the amount deferred and is prohibited from reinsuring any individuals or groups in the program if it fails to pay assessments.

(o) *The board shall advise the office, the Agency for Health Care Administration, the department, other executive departments, and the Legislature on health insurance issues. Specifically, the board shall:*

1. *Provide a forum for stakeholders, consisting of insurers, employers, agents, consumers, and regulators, in the private health insurance market in this state.*

2. *Review and recommend strategies to improve the functioning of the health insurance markets in this state with a specific focus on market stability, access, and pricing.*

3. *Make recommendations to the office for legislation addressing health insurance market issues and provide comments on health insurance legislation proposed by the office.*

4. *Meet at least three times each year. One meeting shall be held to hear reports and to secure public comment on the health insurance market, to develop any legislation needed to address health insurance market issues, and to provide comments on health insurance legislation proposed by the office.*

5. *Issue a report to the office on the state of the health insurance market by September 1 each year. The report shall include recommendations for changes in the health insurance market, results from implementation of previous recommendations, and information on health insurance markets.*

Section 9. Subsection (1) of section 641.27, Florida Statutes, is amended to read:

641.27 Examination by the department.—

(1) The office shall examine the affairs, transactions, accounts, business records, and assets of any health maintenance organization as often as it deems it expedient for the protection of the people of this state, but not less frequently than once every 5 3 years. ~~In lieu of making its own financial examination, the office may accept an independent certified public accountant's audit report prepared on a statutory accounting basis consistent with this part.~~ However, except when the medical records are requested and copies furnished pursuant to s. 456.057, medical

records of individuals and records of physicians providing service under contract to the health maintenance organization shall not be subject to audit, although they may be subject to subpoena by court order upon a showing of good cause. For the purpose of examinations, the office may administer oaths to and examine the officers and agents of a health maintenance organization concerning its business and affairs. The examination of each health maintenance organization by the office shall be subject to the same terms and conditions as apply to insurers under chapter 624. In no event shall expenses of all examinations exceed a maximum of \$50,000 \$20,000 for any 1-year period. Any rehabilitation, liquidation, conservation, or dissolution of a health maintenance organization shall be conducted under the supervision of the department, which shall have all power with respect thereto granted to it under the laws governing the rehabilitation, liquidation, reorganization, conservation, or dissolution of life insurance companies.

Section 10. Subsection (40) of section 641.31, Florida Statutes, is amended to read:

641.31 Health maintenance contracts.—

(40)(a) Any group rate, rating schedule, or rating manual for a health maintenance organization policy, *which provides creditable coverage as defined in s. 627.6561(5),* filed with the office shall provide for an appropriate rebate of premiums paid in the last policy year, contract year, or calendar year when the majority of members of a health individual covered by such plan are is enrolled in and maintained maintains participation in any health wellness, maintenance, or improvement program offered by the group contract holder approved by the health plan. The group individual must provide evidence of demonstrative maintenance or improvement of his or her health status as determined by assessments of agreed-upon health status indicators between the group individual and the health insurer, including, but not limited to, reduction in weight, body mass index, and smoking cessation. Any rebate provided by the health maintenance organization insurer is presumed to be appropriate unless credible data demonstrates otherwise, or unless the rebate program requires the insured to incur costs to qualify for the rebate which equals or exceeds the value of the rebate but the rebate may shall not exceed 10 percent of paid premiums.

(b) The premium rebate authorized by this section shall be effective for a subscriber an insured on an annual basis, unless the number of participating members on the contract renewal anniversary becomes fewer than the majority of the members eligible for participation in the wellness program. individual fails to maintain or improve his or her health status while participating in an approved wellness program, or credible evidence demonstrates that the individual is not participating in the approved wellness program.

(c) A health maintenance organization that issues individual contracts may offer a premium rebate, as provided under this section, for a healthy lifestyle program.

Section 11. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming a law, this act shall take effect July 1, 2005, and shall apply to all policies or contracts issued or renewed on or after July 1, 2005.

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 insurance; amending s. 408.05, F.S.; changing the due date for a report from the Agency for Health Care Administration regarding the State Center for Health Statistics; amending s. 408.909, F.S.; providing an additional criterion for the Office of Insurance Regulation to disapprove or withdraw approval of health flex plans; amending s. 627.413, F.S.; authorizing insurers and health maintenance organizations to offer policies or contracts providing for a high-deductible plan meeting federal requirements and in conjunction with a health savings account; amending s. 627.638, F.S.; revising direct payment provisions for insurers; amending s. 627.6402, F.S.; revising the requirements for the healthy lifestyle premium rebate; amending s. 627.65626, F.S.; providing insurance rebates for healthy lifestyles; amending s. 627.6692, F.S.; extending a time period within which eligible employees may apply for continuation of coverage; amending s. 627.6699, F.S.; revising standards for determining applicability of the Employee Health Care Access Act; prescribing acts that may be performed by an employer without being considered contributing to premiums or facilitating administration of a policy; authorizing certain carri-

ers to offer coverage to certain employees without being subject to the act under certain circumstances; requiring a carrier who offers such coverage to provide notice to the primary insured prior to cancellation for nonpayment of premium; revising an availability of coverage provision of the Employee Health Care Access Act; including high-deductible plans meeting federal health savings account plan requirements; revising membership of the board of the small employer health reinsurance program; revising certain reporting dates relating to program losses and assessments; requiring the board to advise executive and legislative entities on health insurance issues; providing requirements; amending s. 641.27, F.S.; increasing the interval at which the office examines health maintenance organizations; deleting authorization for the office to accept an audit report from a certified public accountant in lieu of conducting its own examination; increasing an expense limitation; amending s. 641.31, F.S.; providing for an insurance rebate for members in a health wellness program; providing for the rebate to cease under certain conditions; providing effective dates.

Pursuant to Rule 4.19, **HB 811** as amended was placed on the calendar of Bills on Third Reading.

MOTION

On motion by Argenziano, the Senate recalled—

HB 315—A bill to be entitled An act relating to home inspection services; creating s. 501.935, F.S.; providing definitions; providing requirements for practice; providing exemptions; providing prohibited acts and penalties; requiring liability insurance; exempting from duty to provide repair cost estimates; providing limitations; providing for enforcement of violations; providing an effective date.

—for further consideration.

RECONSIDERATION OF AMENDMENT

On motion by Senator Argenziano, the Senate reconsidered the vote by which **Amendment 4 (192204)** was adopted. **Amendment 4** was withdrawn.

MOTION

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

Senator Argenziano moved the following amendment which was adopted:

Amendment 5 (022446)(with title amendment)—Between lines 144 and 145 insert:

Section 2. *It is the intent of the Legislature pursuant to section 11.62, Florida Statutes, that the professions and occupations covered by the act be regulated in a manner that does not unnecessarily restrict entry into the profession or occupation pursuant to this act. The Legislature finds that this act provides a measure of protection for homeowners by providing education and experience requirements and testing necessary to protect homeowners' investment in their homes.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On line 8, following the semicolon (;) insert: providing legislative findings and intent with respect to the objectives of the act and protection of homeowners;

Pursuant to Rule 4.19, **HB 315** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Crist—

CS for CS for CS for SB 2048—A bill to be entitled An act relating to judges; amending s. 26.031, F.S.; revising the number of circuit court judges in certain circuits; amending s. 34.022, F.S.; revising the number of county court judges in certain counties; amending s. 35.06, F.S.; revising the number of district court judges in certain district courts of ap-

peal; providing for appointment or election of new judges created by the act; providing legislative findings; requiring the Secretary of State to qualify candidates for the 2006 election; providing effective dates.

—was read the second time by title.

MOTION

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

Senators Crist and Carlton offered the following amendment which was moved by Senator Crist:

Amendment 1 (962968)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Effective November 2, 2005, section 26.031, Florida Statutes, is amended to read:

26.031 Judicial circuits; number of judges.—The number of circuit judges in each circuit shall be as follows:

JUDICIAL CIRCUIT	TOTAL
(1) First	22 21
(2) Second	16 15
(3) Third	6
(4) Fourth	31
(5) Fifth	27 25
(6) Sixth	42 41
(7) Seventh	25 24
(8) Eighth	13 12
(9) Ninth	39 38
(10) Tenth	24 22
(11) Eleventh	76 74
(12) Twelfth	19
(13) Thirteenth	39 37
(14) Fourteenth	9
(15) Fifteenth	35 34
(16) Sixteenth	4
(17) Seventeenth	54 53
(18) Eighteenth	24
(19) Nineteenth	17 15
(20) Twentieth	23

Section 2. Effective January 2, 2006, section 26.031, Florida Statutes, as amended by this act, is amended to read:

26.031 Judicial circuits; number of judges.—The number of circuit judges in each circuit shall be as follows:

JUDICIAL CIRCUIT	TOTAL
(1) First	22
(2) Second	16
(3) Third	7 6
(4) Fourth	32 31
(5) Fifth	28 27

(6) Sixth 44 ~~42~~
(7) Seventh 26 ~~25~~
(8) Eighth 13
(9) Ninth 40 ~~39~~
(10) Tenth 26 ~~24~~
(11) Eleventh 77 ~~76~~
(12) Twelfth 19
(13) Thirteenth 41 ~~39~~
(14) Fourteenth 10 ~~9~~
(15) Fifteenth 35
(16) Sixteenth 4
(17) Seventeenth 56 ~~54~~
(18) Eighteenth 25 ~~24~~
(19) Nineteenth 18 ~~17~~
(20) Twentieth 23

(23) Hamilton 1
(24) Hardee 1
(25) Hendry 1
(26) Hernando 2 ~~1~~
(27) Highlands 1
(28) Hillsborough 16 ~~15~~
(29) Holmes 1
(30) Indian River 2
(31) Jackson 1
(32) Jefferson 1
(33) Lafayette 1
(34) Lake 2
(35) Lee 7
(36) Leon 5
(37) Levy 1
(38) Liberty 1
(39) Madison 1
(40) Manatee 4 ~~3~~
(41) Marion 4 ~~3~~
(42) Martin 2
(43) Miami-Dade 41
(44) Monroe 4
(45) Nassau 1
(46) Okaloosa 3
(47) Okeechobee 1
(48) Orange 16 ~~15~~
(49) Osceola 3
(50) Palm Beach 17
(51) Pasco 4
(52) Pinellas 15 ~~14~~
(53) Polk 9
(54) Putnam 2
(55) St. Johns 2
(56) St. Lucie 4 ~~3~~
(57) Santa Rosa 2
(58) Sarasota 5
(59) Seminole 5
(60) Sumter 1
(61) Suwannee 1
(62) Taylor 1
(63) Union 1

Section 3. Effective November 1, 2005, section 34.022, Florida Statutes, is amended to read:

34.022 Number of county court judges for each county.—The number of county court judges in each county shall be as follows:

COUNTY	TOTAL
(1) Alachua	5
(2) Baker	1
(3) Bay	4 3
(4) Bradford	1
(5) Brevard	8
(6) Broward	27 26
(7) Calhoun	1
(8) Charlotte	2
(9) Citrus	1
(10) Clay	2
(11) Collier	3
(12) Columbia	1
(13) DeSoto	1
(14) Dixie	1
(15) Duval	16 15
(16) Escambia	5
(17) Flagler	1
(18) Franklin	1
(19) Gadsden	1
(20) Gilchrist	1
(21) Glades	1
(22) Gulf	1

(64) Volusia 9
 (65) Wakulla 1
 (66) Walton 1
 (67) Washington 1

Section 4. Effective January 2, 2006, section 34.022, Florida Statutes, as amended by this act, is amended to read:

34.022 Number of county court judges for each county.—The number of county court judges in each county shall be as follows:

COUNTY	TOTAL
(1) Alachua	5
(2) Baker	1
(3) Bay	4
(4) Bradford	1
(5) Brevard	9 8
(6) Broward	28 27
(7) Calhoun	1
(8) Charlotte	2
(9) Citrus	1
(10) Clay	2
(11) Collier	3
(12) Columbia	1
(13) DeSoto	1
(14) Dixie	1
(15) Duval	16
(16) Escambia	5
(17) Flagler	1
(18) Franklin	1
(19) Gadsden	1
(20) Gilchrist	1
(21) Glades	1
(22) Gulf	1
(23) Hamilton	1
(24) Hardee	1
(25) Hendry	1
(26) Hernando	2
(27) Highlands	1
(28) Hillsborough	17 16
(29) Holmes	1
(30) Indian River	2
(31) Jackson	1
(32) Jefferson	1
(33) Lafayette	1

(34) Lake	3 2
(35) Lee	7
(36) Leon	5
(37) Levy	1
(38) Liberty	1
(39) Madison	1
(40) Manatee	4
(41) Marion	4
(42) Martin	3 2
(43) Miami-Dade	42 41
(44) Monroe	4
(45) Nassau	1
(46) Okaloosa	3
(47) Okeechobee	1
(48) Orange	16
(49) Osceola	3
(50) Palm Beach	18 17
(51) Pasco	5 4
(52) Pinellas	15
(53) Polk	9
(54) Putnam	2
(55) St. Johns	2
(56) St. Lucie	4
(57) Santa Rosa	2
(58) Sarasota	5
(59) Seminole	6 5
(60) Sumter	1
(61) Suwannee	1
(62) Taylor	1
(63) Union	1
(64) Volusia	10 9
(65) Wakulla	1
(66) Walton	1
(67) Washington	1

Section 5. Except as otherwise expressly 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 judges; amending s. 26.031, F.S.; revising the number of circuit court judges in certain circuits; amending s. 34.022, F.S.; revising the number of county court judges in certain counties; providing effective dates.

MOTION

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

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

Amendment 1A (382616)(with title amendment)—On page 7, between lines 30 and 31, insert:

Section 5. *The sums of \$8,203,458 in recurring funds and \$306,659 in nonrecurring funds are appropriated from the General Revenue Fund to the circuit and county courts for fiscal year 2005-2006, and 120 full-time positions are authorized.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 8, line 14, following the semicolon (;) insert: providing appropriations and authorizing positions;

Amendment 1 as amended was adopted.

On motion by Senator Miller, by two-thirds vote **CS for CS for CS for SB 2048** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Rich
Atwater	Geller	Saunders
Baker	Haridopolos	Sebesta
Bennett	Hill	Siplin
Bullard	Jones	Smith
Campbell	King	Villalobos
Carlton	Klein	Webster
Clary	Lawson	Wilson
Constantine	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

On motion by Senator Crist—

SB 870—A bill to be entitled An act relating to disabled parking permits; amending s. 320.0848, F.S.; revising requirements for certification of disability; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 870** to **HB 63**.

Pending further consideration of **SB 870** as amended, on motion by Senator Crist, by two-thirds vote **HB 63** was withdrawn from the Committees on Transportation; and Community Affairs.

On motion by Senator Crist—

HB 63—A bill to be entitled An act relating to disabled parking permits; amending s. 320.0848, F.S.; revising requirements for certification of disability; removing certain restrictions on certification of disability by an advanced registered nurse practitioner or a physician assistant; providing for disciplinary action for violation by certain certifying practitioners; providing an effective date.

—a companion measure, was substituted for **SB 870** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 63** was placed on the calendar of Bills on Third Reading.

THE PRESIDENT PRESIDING

The Senate resumed consideration of—

CS for CS for SJR 2090—A joint resolution proposing an amendment to Section 1 of Article IX of the State Constitution, relating to public education, to amend the class-size requirements for students in grades prekindergarten through 12 and to prescribe minimum salary standards for public school teachers, and the creation of Section 26 of Article XII of the State Constitution to prescribe a schedule for such amendment.

—which was previously considered this day.

Pending further consideration of **CS for CS for SJR 2090**, on motion by Senator Lynn, by two-thirds vote **HJR 1843** was withdrawn from the Committees on Education; and Education Appropriations.

On motion by Senator Lynn—

HJR 1843—A joint resolution proposing an amendment to Section 1 of Article IX and the creation of Section 26 of Article XII of the State Constitution relating to public education.

—a companion measure, was substituted for **CS for CS for SJR 2090** and read the second time by title.

MOTION

On motion by Senator Lynn, the rules were waived to allow the following amendments to be considered:

Senator Lynn moved the following amendments which were adopted:

Amendment 1 (875634)—On page 4, line 100, delete “pay” and insert: salary

Amendment 2 (653360)—On line 55, delete “pay” and insert: salary

Pursuant to Rule 4.19, **HJR 1843** as amended was placed on the calendar of Bills on Third Reading.

By direction of the President, the rules were waived and the Senate reverted to—

BILLS ON THIRD READING

CS for CS for SB 778—A bill to be entitled An act relating to per diem and travel expenses; amending s. 112.061, F.S.; establishing per diem, subsistence, and mileage rates for travel expenses of public employees; conforming provisions and deleting obsolete provisions; providing legislative intent; requiring state agencies to submit certain information; providing an appropriation; requiring the Governor to recommend a budget amendment to distribute the appropriation; providing an effective date.

—was read the third time by title.

On motion by Senator Lawson, **CS for CS for SB 778** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Rich
Atwater	Geller	Saunders
Baker	Haridopolos	Sebesta
Bennett	Hill	Siplin
Bullard	Jones	Smith
Campbell	King	Villalobos
Carlton	Klein	Webster
Clary	Lawson	Wilson
Constantine	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

Consideration of **HJR 1723, HJR 1727, HJR 1741, HB 1471, CS for SB 718 and HB 1659** was deferred.

CS for SB 798—A bill to be entitled An act relating to public records; amending s. 390.01116, F.S.; providing a public-records exemption for information that could identify a minor which is contained in a record held by the court relating to a minor's petition to waive notice requirements when terminating a pregnancy; providing for future legislative review and repeal under the Open Government Sunset Review Act; providing findings of public necessity; providing a contingent effective date.

—was read the third time by title.

On motion by Senator Webster, **CS for SB 798** was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Rich
Atwater	Geller	Saunders
Baker	Haridopolos	Sebesta
Bennett	Hill	Siplin
Bullard	Jones	Smith
Campbell	King	Villalobos
Carlton	Klein	Webster
Clary	Lawson	Wilson
Constantine	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

Consideration of **CS for SB 1344** was deferred.

The Senate resumed consideration of—

CS for CS for SB 1766—A bill to be entitled An act relating to administration of medication to public school students; creating s. 1006.0625, F.S.; defining the term “psychotropic medication”; prohibiting a public school from denying a student access to programs or services under certain conditions; authorizing public school teachers and school district personnel to share certain information with a student's parent; prohibiting public school teachers and school district personnel from compelling certain actions by a parent; authorizing the refusal of psychological screening; providing for medical decisionmaking authority; providing an effective date.

—which was previously considered and amended May 3 with pending **Amendment 1 (774898)** by Senator Crist.

Senators Rich, Crist and Smith offered the following amendment to **Amendment 1** which was moved by Senator Crist and adopted by two-thirds vote:

Amendment 1A (055632)—On page 2, line 17, delete “and have future consequences”

Amendment 1 as amended was adopted by two-thirds vote.

Pending further consideration of **CS for CS for SB 1766** as amended, on motion by Senator Crist, by two-thirds vote **HB 209** was withdrawn from the Committees on Education; and Health Care.

On motion by Senator Crist, the rules were waived and by two-thirds vote—

HB 209—A bill to be entitled An act relating to administration of medication to public school students; creating s. 1006.0625, F.S.; defin-

ing the term “psychotropic medication”; prohibiting a recipient of state funds from requiring a student to be prescribed or administered psychotropic medication as a condition of receipt of educational services financed by state funds; providing requirements for administration; requiring notification to parents prior to evaluation of certain students for classification or placement as an exceptional student; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1766** as amended and read the second time by title.

Senators Rich, Crist, Smith and Bullard offered the following amendment which was moved by Senator Crist and adopted:

Amendment 1 (162680)—On line 43, delete “and have future consequences”

On motion by Senator Crist, by two-thirds vote **HB 209** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz de la Portilla	Miller
Alexander	Dockery	Peadar
Argenziano	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Rich
Baker	Haridopolos	Saunders
Bennett	Hill	Sebesta
Bullard	Jones	Siplin
Campbell	King	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Vote after roll call:

Yea—Carlton

CS for CS for SB 1964—A bill to be entitled An act relating to compensation for wrongfully incarcerated persons; creating s. 961.01, F.S.; providing a short title; creating s. 961.02, F.S.; defining the term “wrongfully incarcerated person”; requiring courts to determine whether certain persons are wrongfully incarcerated persons; authorizing petitions to the court for a determination of wrongful conviction; creating s. 961.03, F.S.; authorizing compensation for certain wrongfully incarcerated persons; providing exceptions and limitations; creating s. 961.04, F.S.; providing procedures to apply to the Attorney General for compensation; providing for presuit negotiation of compensation; authorizing lawsuits against the state for determination of compensation; providing for recovery of certain fees and costs; providing for determination of such fees and costs; limiting total compensation; providing for the manner of payment of compensation; providing restrictions on use of compensation; providing timeframes for applying for compensation; creating s. 961.05, F.S.; providing rulemaking authority; providing an effective date.

—as amended May 2 was read the third time by title.

Senators Campbell and Smith offered the following amendment which was moved by Senator Smith and adopted by two-thirds vote:

Amendment 1 (212068)(with title amendment)—On page 6, lines 13-17, delete those lines and insert:

(a) *Both the state and the applicant shall file an offer of settlement within 30 days after the close of the pleadings. If a judgment exceeds the offer of settlement by the applicant by at least 25 percent, the state shall pay reasonable attorney's fees, reasonable accounting fees, and reasonable actuarial fees.*

And the title is amended as follows:

On page 1, line 18, following the semicolon (;) insert: requiring a settlement offer and

On motion by Senator Webster, **CS for CS for SB 1964** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz de la Portilla	Miller
Alexander	Dockery	Peaden
Argenziano	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Rich
Baker	Haridopolos	Saunders
Bennett	Hill	Sebesta
Bullard	Jones	Siplin
Campbell	King	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Vote after roll call:

Yea—Carlton

CS for SB 1922—A bill to be entitled An act relating to public-records and public-meetings exemptions; amending s. 112.324, F.S.; providing an exemption from public-records requirements for a complaint of an alleged violation of part III of chapter 112, F.S., the Code of Ethics for Public Officers and Employees, or any other alleged breach of the public trust within the jurisdiction of a Commission on Ethics and Public Trust established by a municipality and records relating to such complaint or to any preliminary investigation held by the commission; providing an exemption from public-meetings requirements for any proceeding conducted by the commission pursuant to such complaint or preliminary investigation; providing conditions for termination of the exemptions; providing for review and repeal under the Open Government Sunset Review Act; providing a statement of public necessity; providing an effective date.

—was read the third time by title.

On motion by Senator Sebesta, **CS for SB 1922** was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz de la Portilla	Miller
Alexander	Dockery	Peaden
Argenziano	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Rich
Baker	Haridopolos	Saunders
Bennett	Hill	Sebesta
Bullard	Jones	Siplin
Campbell	King	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Vote after roll call:

Yea—Carlton

HB 101—A bill to be entitled An act relating to tax on sales, use, and other transactions; specifying a period during which the sale of books, clothing, and school supplies are exempt from such tax; providing definitions providing exceptions; authorizing the Department of Revenue to adopt rules; providing an appropriation; providing an effective date.

—was read the third time by title.

On motion by Senator Webster, **HB 101** was passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Dockery	Peaden
Alexander	Fasano	Posey
Argenziano	Garcia	Pruitt
Aronberg	Geller	Rich
Baker	Haridopolos	Saunders
Bennett	Hill	Sebesta
Bullard	Jones	Siplin
Campbell	King	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise
Diaz de la Portilla	Miller	

Nays—None

Vote after roll call:

Yea—Atwater, Carlton

HCB 6001 (for HB's 337, 737)—A bill to be entitled An act relating to hurricane preparedness; providing an exemption from the sales and use tax for sales of certain tangible personal property for a certain period for certain purposes; authorizing the Department of Revenue to adopt certain rules; providing an appropriation; providing an effective date.

—was read the third time by title.

On motion by Senator Baker, **HCB 6001 (for HB's 337, 737)** was passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz de la Portilla	Miller
Alexander	Dockery	Peaden
Argenziano	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Rich
Baker	Haridopolos	Saunders
Bennett	Hill	Sebesta
Bullard	Jones	Siplin
Campbell	King	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Vote after roll call:

Yea—Carlton

CS for CS for SB 2232—A bill to be entitled An act relating to the Public Service Commission; creating the Committee on Public Service Commission Oversight as a standing joint committee of the Legislature; providing for its membership, powers, and duties; amending s. 350.001, F.S.; requiring that the commission perform its duties independently; specifying that the Governor has no planning or budgetary authority with respect to the commission; specifying that the Governor and the Department of Management Services have no authority over the commission's employees; amending s. 350.031, F.S.; authorizing the Florida Public Service Commission Nominating Council to make expenditures to advertise a vacancy on the council or the commission; requiring that the Committee on Public Service Commission Oversight provide a nominee for recommendation to the Governor for appointment to the Public Service Commission; providing procedures; amending s. 350.041, F.S.; clarifying the prohibition against accepting gifts with respect to its application to commissioners attending conferences; requiring that a pen-

alty be imposed against a person who gives a commissioner a prohibited gift; requiring that commissioners avoid impropriety and act in a manner that promotes confidence in the commission; prohibiting a commissioner from soliciting any thing of value, either directly or indirectly, from any public utility, its affiliate, or any party; amending s. 350.042, F.S.; requiring that a penalty be imposed against a person involved in a prohibited ex parte communication with a commissioner; amending s. 350.061, F.S.; requiring that the Committee on Public Service Commission Oversight rather than the Joint Legislative Auditing Committee appoint the Public Counsel; providing for biennial reconfirmation rather than annual; requiring that the Public Counsel perform his or her duties independently; amending s. 350.0614, F.S.; requiring that the Committee on Public Service Commission Oversight rather than the Joint Legislative Auditing Committee oversee expenditures of the Public Counsel; amending s. 364.01, F.S.; specifying the exclusive jurisdiction of the Florida Public Service Commission to regulate telecommunications companies; providing that state laws governing business and consumer protection be applied to communications activities that are not regulated by the commission; revising provisions governing the exclusive jurisdiction of the commission; creating s. 364.011, F.S.; specifying certain services that are exempt from oversight by the commission; creating s. 364.012, F.S.; requiring the commission to coordinate with federal agencies; providing that ch. 364, F.S., does not limit or modify certain duties of a local exchange carrier; creating s. 364.013, F.S.; requiring that broadband service remain free of state and local regulation; requiring that voice-over-Internet protocol remain free of regulation, except as specifically provided in ch. 364, F.S., or by federal law; amending s. 364.02, F.S.; defining the terms “broadband service” and “VoIP”; redefining the term “service”; amending s. 364.0361, F.S.; prohibiting a local government from regulating voice-over-Internet protocol regardless of the platform or provider; amending s. 364.10, F.S.; revising the income threshold for eligibility for Lifeline service; repealing s. 364.502, F.S., relating to video programming services; amending s. 364.335, F.S.; increasing to \$500 from \$250 the maximum allowable filing fee for certification of telecommunications carriers; amending s. 364.336, F.S.; authorizing the Public Service Commission to establish a minimum fee of up to \$1,000; authorizing different fees for different types of services provided by telecommunications companies; amending ss. 196.012, 199.183, 212.08, 290.007, 350.0605, 364.602, and 489.103, F.S.; conforming cross-references; requiring providers to comply with certain laws; amending s. 364.051, F.S.; providing that damage to the equipment and facilities of a local exchange telecommunications as a result of a named tropical system constitutes a compelling showing of changed circumstances to justify a rate increase; allowing such companies to petition for recovery of such costs and expenses; requiring the Public Service Commission to verify the intrastate costs and expenses for repairing, restoring, or replacing damaged lines, plants, or facilities; requiring the commission to determine whether the intrastate costs and expenses are reasonable; requiring a company to exhaust any storm-reserve funds prior to recovery from customers; providing that the commission may authorize adding an equal line-item charge per access line for certain customers; providing for a rate cap and providing the maximum number of months the rate may be imposed; providing a 12-month limit for the application; allowing recovery for more than one storm within the limit; providing effective dates.

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

Amendments were considered and failed and amendments were considered and adopted to conform **CS for CS for SB 2232** to **HB 1649**.

Pending further consideration of **CS for CS for SB 2232** as amended, on motion by Senator Constantine, by two-thirds vote **HB 1649** was withdrawn from the Committees on Communications and Public Utilities; Commerce and Consumer Services; Government Efficiency Appropriations; and Transportation and Economic Development Appropriations.

On motion by Senator Constantine, the rules were waived and by two-thirds vote—

HB 1649—A bill to be entitled An act relating to telecommunications regulation; amending s. 364.01, F.S.; providing that state laws governing business and consumer protection be applied to communications activities that are not regulated by the commission; revising provisions governing the exclusive jurisdiction of the commission; creating s. 364.011, F.S.; specifying certain services that are exempt from oversight by the commission; creating s. 364.012, F.S.; directing the commission

to maintain liaison with federal agencies; providing that ch. 364, F.S., does not limit or modify certain duties of a local exchange carrier; creating s. 364.013, F.S.; requiring that broadband service and voice-over-Internet protocol be free of state regulation, except as specifically provided; amending s. 364.02, F.S.; defining the terms “broadband service” and “VoIP”; revising the definition of “service”; amending s. 364.0361, F.S.; prohibiting a local government from regulating the provision of voice-over-Internet protocol; amending s. 364.051, F.S.; providing that evidence of damage caused by a tropical storm system constitutes a compelling showing of changed circumstances to justify a change in rates; revising procedures to recover certain costs and expenses; providing conditions to qualify for filing a petition for recovery; providing for the commission to order a line-item charge for a certain period to recover costs and expenses of such damage; limiting amount of such charge; providing for verification of amounts collected; limiting the number of petitions for recovery of costs and expenses; amending s. 364.10, F.S.; revising the income threshold for eligibility for Lifeline service; amending s. 364.335, F.S.; increasing the maximum allowable filing fee for certification of telecommunications carriers; amending s. 364.336, F.S.; providing minimum regulatory assessment fees to be assessed by rule of the commission; repealing s. 364.502, F.S., relating to video programming services; amending ss. 196.012, 199.183, 212.08, 290.007, 350.0605, 364.602, and 489.103, F.S.; conforming cross references; providing for construction of the act; providing effective dates.

—a companion measure, was substituted for **CS for CS for SB 2232** as amended and read the second time by title.

MOTION

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

Senator Constantine moved the following amendment:

Amendment 1 (385652)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *Committee on Public Service Commission Oversight; creation; membership; powers and duties.*—

(1) *There is created a standing joint committee of the Legislature, designated the Committee on Public Service Commission Oversight, and composed of twelve members appointed as follows: six members of the Senate appointed by the President of the Senate, two of whom must be members of the minority party; and six members of the House of Representatives appointed by the Speaker of the House of Representatives, two of whom must be members of the minority party. The terms of members shall be for 2 years and shall run from the organization of one Legislature to the organization of the next Legislature. The President shall appoint the chair of the committee in even-numbered years and the vice chair in odd-numbered years, and the Speaker of the House of Representatives shall appoint the chair of the committee in odd-numbered years and the vice chair in even-numbered years, from among the committee membership. Vacancies shall be filled in the same manner as the original appointment. Members shall serve without additional compensation, but shall be reimbursed for expenses.*

(2) *The committee shall be governed by joint rules of the Senate and the House of Representatives which shall remain in effect until repealed or amended by concurrent resolution.*

(3) *The committee shall:*

(a) *Recommend to the Governor nominees to fill a vacancy on the Public Service Commission, as provided by general law; and*

(b) *Appoint a Public Counsel as provided by general law.*

(4) *The committee is authorized to file a complaint with the Commission on Ethics alleging a violation of chapter 350, Florida Statutes, by a commissioner, former commissioner, former commission employee, or member of the Public Service Commission Nominating Council.*

(5) *The committee will not have a permanent staff, but the President of the Senate and the Speaker of the House of Representatives shall select staff members from among existing legislative staff, when and as needed.*

Section 2. Section 350.001, Florida Statutes, is amended to read:

350.001 Legislative intent.—The Florida Public Service Commission has been and shall continue to be an arm of the legislative branch of government. *The Public Service Commission shall perform its duties independently.* It is the desire of the Legislature that the Governor participate in the appointment process of commissioners to the Public Service Commission. The Legislature accordingly delegates to the Governor a limited authority with respect to the Public Service Commission by authorizing him or her to participate in the selection of members only ~~from the list provided by the Florida Public Service Commission Nominating Council~~ in the manner prescribed by s. 350.031.

Section 3. Section 350.031, Florida Statutes, is amended to read:

350.031 Florida Public Service Commission Nominating Council.—

(1) There is created a Florida Public Service Commission Nominating Council consisting of nine members. At least one member of the council must be 60 years of age or older. Three members, including one member of the House of Representatives, shall be appointed by and serve at the pleasure of the Speaker of the House of Representatives; three members, including one member of the Senate, shall be appointed by and serve at the pleasure of the President of the Senate; and three members shall be selected and appointed by a majority vote of the other six members of the council. All terms shall be for 4 years except those members of the House and Senate, who shall serve 2-year terms concurrent with the 2-year elected terms of House members. Vacancies on the council shall be filled for the unexpired portion of the term in the same manner as original appointments to the council. A member may not be reappointed to the council, except for a member of the House of Representatives or the Senate who may be appointed to two 2-year terms or a person who is appointed to fill the remaining portion of an unexpired term.

(2)(a) No member or spouse shall be the holder of the stocks or bonds of any company, other than through ownership of shares in a mutual fund, regulated by the commission, or any affiliated company of any company regulated by the commission, or be an agent or employee of, or have any interest in, any company regulated by the commission or any affiliated company of any company regulated by the commission, or in any firm which represents in any capacity either companies which are regulated by the commission or affiliates of companies regulated by the commission. As a condition of appointment to the council, each appointee shall affirm to the Speaker and the President his or her qualification by the following certification: "I hereby certify that I am not a stockholder, other than through ownership of shares in a mutual fund, in any company regulated by the commission or in any affiliate of a company regulated by the commission, nor in any way, directly or indirectly, in the employment of, or engaged in the management of any company regulated by the commission or any affiliate of a company regulated by the commission, or in any firm which represents in any capacity either companies which are regulated by the commission or affiliates of companies regulated by the commission."

This certification is made as condition to appointment to the Florida Public Service Commission Nominating Council.

(b) A member of the council may be removed by the Speaker of the House of Representatives and the President of the Senate upon a finding by the Speaker and the President that the council member has violated any provision of this subsection or for other good cause.

(c) If a member of the council does not meet the requirements of this subsection, the President of the Senate or the Speaker of the House of Representatives, as appropriate, shall appoint a legislative replacement.

(3) A majority of the membership of the council may conduct any business before the council. All meetings and proceedings of the council shall be staffed by the Office of Legislative Services and shall be subject to the provisions of ss. 119.07 and 286.011. Members of the council are entitled to receive per diem and travel expenses as provided in s. 112.061, which shall be funded by the Florida Public Service Regulatory Trust Fund. Applicants invited for interviews before the council may, in the discretion of the council, receive per diem and travel expenses as provided in s. 112.061, which shall be funded by the Florida Public Service Regulatory Trust Fund. The council shall establish policies and procedures to govern the process by which applicants are nominated.

(4) *The council may spend a nominal amount, not to exceed \$10,000, to advertise a vacancy on the council, which shall be funded by the Florida Public Service Regulatory Trust Fund.*

(5)(4) A person may not be nominated to the *Committee on Public Service Commission Oversight* ~~Governor~~ until the council has determined that the person is competent and knowledgeable in one or more fields, which shall include, but not be limited to: public affairs, law, economics, accounting, engineering, finance, natural resource conservation, energy, or another field substantially related to the duties and functions of the commission. The commission shall fairly represent the above-stated fields. Recommendations of the council shall be nonpartisan.

(6)(5) It is the responsibility of the council to nominate to the *Committee on Public Service Commission Oversight* ~~Governor~~ ~~not fewer than six~~ ~~three~~ persons for each vacancy occurring on the Public Service Commission. The council shall submit the recommendations to the *committee* ~~Governor~~ by August 1 ~~October 1~~ of those years in which the terms are to begin the following January, or within 60 days after a vacancy occurs for any reason other than the expiration of the term.

(7)(6) The *Committee on Public Service Commission Oversight* ~~Governor~~ shall select from the list of nominees provided by the nominating council three nominees for recommendation to the Governor for appointment to the commission. *The recommendations must be provided to the Governor within 45 days after receipt of the list of nominees. The Governor shall fill a vacancy occurring on the Public Service Commission by appointment of one of the applicants nominated by the committee* ~~council~~ only after a background investigation of such applicant has been conducted by the Florida Department of Law Enforcement. If the Governor has not made an appointment *within 30 days after the receipt of the recommendation* ~~by December 1 to fill a vacancy for a term to begin the following January, then the committee~~ ~~council~~, by majority vote, shall appoint, *within 30 days after the expiration of the Governor's time to make an appointment, by December 31* one person from the applicants previously nominated to the Governor to fill the vacancy. ~~If the Governor has not made the appointment to fill a vacancy occurring for any reason other than the expiration of the term by the 60th day following receipt of the nominations of the council, the council by majority vote shall appoint within 30 days thereafter one person from the applicants previously nominated to the Governor to fill the vacancy.~~

(8)(7) Each appointment to the Public Service Commission shall be subject to confirmation by the Senate *during the next regular session after the vacancy occurs.* If the Senate refuses to confirm or rejects the Governor's appointment, the council shall initiate, in accordance with this section, the nominating process within 30 days.

Section 4. Subsection (2) of section 350.041, Florida Statutes, is amended to read:

350.041 Commissioners; standards of conduct.—

(2) STANDARDS OF CONDUCT.—

(a) A commissioner may not accept anything from any business entity which, either directly or indirectly, owns or controls any public utility regulated by the commission, from any public utility regulated by the commission, or from any business entity which, either directly or indirectly, is an affiliate or subsidiary of any public utility regulated by the commission. *A commissioner may attend conferences and associated meals and events that are generally available to all conference participants without payment of any fees in addition to the conference fee. Additionally, while attending a conference, a commissioner may attend meetings, meals, or events that are not sponsored, in whole or in part, by any representative of any public utility regulated by the commission and that are limited to commissioners only, committee members, or speakers if the commissioner is a member of a committee of the association of regulatory agencies that organized the conference or is a speaker at the conference. It is not a violation of this paragraph for a commissioner to attend a conference for which conference participants who are employed by a utility regulated by the commission have paid a higher conference registration fee than the commissioner, or to attend a meal or event that is generally available to all conference participants without payment of any fees in addition to the conference fee and that is sponsored, in whole or in part, by a utility regulated by the commission. If, during the course of an investigation by the Commission on Ethics into an alleged violation of this paragraph, allegations are made as to the identity of the person giving or providing the prohibited gift, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines*

that the person gave or provided a prohibited gift, the person may not appear before the commission or otherwise represent anyone before the commission for a period of 2 years.

(b) A commissioner may not accept any form of employment with or engage in any business activity with any business entity which, either directly or indirectly, owns or controls any public utility regulated by the commission, any public utility regulated by the commission, or any business entity which, either directly or indirectly, is an affiliate or subsidiary of any public utility regulated by the commission.

(c) A commissioner may not have any financial interest, other than shares in a mutual fund, in any public utility regulated by the commission, in any business entity which, either directly or indirectly, owns or controls any public utility regulated by the commission, or in any business entity which, either directly or indirectly, is an affiliate or subsidiary of any public utility regulated by the commission. If a commissioner acquires any financial interest prohibited by this section during his or her term of office as a result of events or actions beyond the commissioner's control, he or she shall immediately sell such financial interest or place such financial interest in a blind trust at a financial institution. A commissioner may not attempt to influence, or exercise any control over, decisions regarding the blind trust.

(d) A commissioner may not accept anything from a party in a proceeding currently pending before the commission. *If, during the course of an investigation by the Commission on Ethics into an alleged violation of this paragraph, allegations are made as to the identity of the person giving or providing the prohibited gift, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines that the person gave or provided a prohibited gift, the person may not appear before the commission or otherwise represent anyone before the commission for a period of 2 years.*

(e) A commissioner may not serve as the representative of any political party or on any executive committee or other governing body of a political party; serve as an executive officer or employee of any political party, committee, organization, or association; receive remuneration for activities on behalf of any candidate for public office; engage on behalf of any candidate for public office in the solicitation of votes or other activities on behalf of such candidacy; or become a candidate for election to any public office without first resigning from office.

(f) A commissioner, during his or her term of office, may not make any public comment regarding the merits of any proceeding under ss. 120.569 and 120.57 currently pending before the commission.

(g) A commissioner may not conduct himself or herself in an unprofessional manner at any time during the performance of his or her official duties.

(h) *A commissioner must avoid impropriety in all of his or her activities and must act at all times in a manner that promotes public confidence in the integrity and impartiality of the commission.*

(i) *A commissioner may not directly or indirectly, through staff or other means, solicit any thing of value from any public utility regulated by the commission, or from any business entity that, whether directly or indirectly, is an affiliate or subsidiary of any public utility regulated by the commission, or from any party appearing in a proceeding considered by the commission in the last 2 years.*

Section 5. Subsection (7) of section 350.042, Florida Statutes, is amended to read:

350.042 Ex parte communications.—

(7)(a) It shall be the duty of the Commission on Ethics to receive and investigate sworn complaints of violations of this section pursuant to the procedures contained in ss. 112.322-112.3241.

(b) If the Commission on Ethics finds that there has been a violation of this section by a public service commissioner, it shall provide the Governor and the Florida Public Service Commission Nominating Council with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations of the Commission on Ethics, pursuant to part III of chapter 112.

(c) If a commissioner fails or refuses to pay the Commission on Ethics any civil penalties assessed pursuant to the provisions of this section, the Commission on Ethics may bring an action in any circuit court to enforce such penalty.

(d) *If, during the course of an investigation by the Commission on Ethics into an alleged violation of this section, allegations are made as to the identity of the person who participated in the ex parte communication, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines that the person participated in the ex parte communication, the person may not appear before the commission or otherwise represent anyone before the commission for a period of 2 years.*

Section 6. Subsection (1) of section 350.061, Florida Statutes, is amended to read:

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

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

Section 7. Subsection (2) of section 350.0614, Florida Statutes, is amended to read:

350.0614 Public Counsel; compensation and expenses.—

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

Section 8. *Communications services offered by governmental entities.—*

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

(a) *“Advanced service” means high-speed-Internet-access-service capability in excess of 200 kilobits per second in the upstream or the downstream direction, including any service application provided over the high-speed-access service or any information service as defined in 47 U.S.C. s. 153(20).*

(b) *“Cable service” has the same meaning as in 47 U.S.C. s. 522(6).*

(c) *“Communications services” includes any “advanced service,” “cable service,” or “telecommunications service” and shall be construed in the broadest sense.*

(d) *“Enterprise fund” means a separate fund to account for the operation of communications services by a local government, established and maintained in accordance with generally accepted accounting principles as prescribed by the Governmental Accounting Standards Board.*

(e) *“Governmental entity” means any political subdivision as defined in section 1.01, Florida Statutes, including any county, municipality, special district, school district, utility authority or other authority or any instrumentality, agency, unit or department thereof. The term does not include an independent special district created before 1970 which has been granted express legislative authority to provide a communications service and which does not sell a communications service outside its district boundaries.*

(f) *“Provide,” “providing,” “provision,” or “provisioning” means offering or supplying a communications service for a fee or other consideration*

to a person, including any portion of the public or private provider, but does not include service by an entity to itself or to any other governmental entity.

(g) "Subscriber" means a person who receives a communications service.

(h) "Telecommunications services" means the transmission of signs, signals, writing, images, sounds, messages, data, or other information of the user's choosing, by wire, radio, light waves, or other electromagnetic means, without change in the form or content of the information as sent and received by the user and regardless of the facilities used, including, without limitation, wireless facilities.

(2)(a) A governmental entity that proposes to provide a communications service shall hold no less than two public hearings, which shall be held not less than 30 days apart. At least 30 days before the first of the two public hearings, the governmental entity must give notice of the hearing in the predominant newspaper of general circulation in the area considered for service. At least 40 days before the first public hearing, the governmental entity must electronically provide notice to the Department of Revenue and the Public Service Commission, which shall post the notice on the department's and the commission's website to be available to the public. The Department of Revenue shall also send the notice by United States Postal Service to the known addresses for all dealers of communications services registered with the department under chapter 202, Florida Statutes, or provide an electronic notification, if the means are available, within 10 days after receiving the notice. The notice must include the time and place of the hearings and must state that the purpose of the hearings is to consider whether the governmental entity will provide communications services. The notice must include, at a minimum, the geographic areas proposed to be served by the governmental entity and the services, if any, which the governmental entity believes are not currently being adequately provided. The notice must also state that any dealer who wishes to do so may appear and be heard at the public hearings.

(b) At a public hearing required by this subsection, a governmental entity must, at a minimum, consider:

1. Whether the service that is proposed to be provided is currently being offered in the community and, if so, whether the service is generally available throughout the community.

2. Whether a similar service is currently being offered in the community and, if so, whether the service is generally available throughout the community.

3. If the same or similar service is not currently offered, whether any other service provider proposes to offer the same or a similar service and, if so, what assurances that service provider is willing or able to offer regarding the same or similar service.

4. The capital investment required by the government entity to provide the communications service, the estimated realistic cost of operation and maintenance and, using a full cost-accounting method, the estimated realistic revenues and expenses of providing the service and the proposed method of financing.

5. The private and public costs and benefits of providing the service by a private entity or a governmental entity, including the affect on existing and future jobs, actual economic development prospects, tax-base growth, education, and public health.

(c) At one or more of the public hearings under this subsection, the governmental entity must make available to the public a written business plan for the proposed communications service venture containing, at a minimum:

1. The projected number of subscribers to be served by the venture.
2. The geographic area to be served by the venture.
3. The types of communications services to be provided.
4. A plan to ensure that revenues exceed operating expenses and payment of principal and interest on debt within 4 years.
5. Estimated capital and operational costs and revenues for the first 4 years.

6. Projected network modernization and technological upgrade plans, including estimated costs.

(d) After making specific findings regarding the factors in paragraphs (b) and (c), the governmental entity may authorize providing a communications service by a majority recorded vote and by resolution, ordinance, or other formal means of adoption.

(e) The governing body of a governmental entity may issue one or more bonds to finance the capital costs for facilities to provide a communications service. However:

1. A governmental entity may only pledge revenues in support of the issuance of any bond to finance providing a communications service:

- a. Within the county in which the governmental entity is located;
- b. Within an area in which the governmental entity provides electric service outside its home county under an electric service territorial agreement approved by the Public Service Commission before the effective date of this act; or
- c. If the governmental entity is a municipality or special district, within its corporate limits or in an area in which the municipality or special district provides water, wastewater, electric, or natural gas service, or within an urban service area designated in a comprehensive plan, whichever is larger, unless the municipality or special district obtains the consent of the governmental entity within the boundaries of which the municipality or special district proposes to provide service. Any governmental entity from which consent is sought shall be the county or shall be located within the county in which the governmental entity is located for consent to be effective.

2. Revenue bonds issued in order to finance providing a communications service are not subject to the approval of the electors if the revenue bonds mature within 15 years. Revenue bonds issued to finance providing a communications service that does not mature within 15 years must be approved by the electors. The election must be conducted as specified in chapter 100, Florida Statutes.

(f) A governmental entity providing a communications service may not price any service below the cost of providing the service by subsidizing the communications service with moneys from rates paid by subscribers of a noncommunications services utility or from any other revenues. The cost standard for determining cross-subsidization is whether the total revenue from the service is less than the total long-run incremental cost of the service. Total long-run incremental cost means service-specific volume and nonvolume-sensitive costs.

(g) A governmental entity providing a communications service must comply with the requirements of section 218.32, Florida Statutes, and shall keep separate and accurate books and records, maintained in accordance with generally accepted accounting principles, of a governmental entity's communication service, and they shall be made available for any audits of the books and records conducted under applicable law. To facilitate equitable distribution of indirect costs, a local government shall develop and follow a cost-allocation plan, which is a procedure for allocating direct and indirect costs and which is generally developed in accordance with OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Government, published by the United States Office of Management and Budget.

(h) The governmental entity shall establish an enterprise fund to account for its operation of communications services.

(i) The governmental entity shall adopt separate operating and capital budgets for its communications services.

(j) A governmental entity may not use its powers of eminent domain under chapter 73, Florida Statutes, solely or primarily for the purpose of providing a communications service.

(k) The governmental entity shall conduct an annual review at a formal public meeting to consider the progress the governmental entity is making toward reaching its business plan goals and objectives for providing communication services. At the public meeting the governmental entity shall review the related revenues, operating expenses, and payment of interest on debt.

(l) If, after 4 years following the initiation of the provision of communications services by a governmental entity or 4 years after the effective date of this act, whichever is later, revenues do not exceed operating expenses and payment of principal and interest on the debt for a governmental entity's provision of communications services, no later than 60 days following the end of the 4-year period a governmental entity shall hold a public hearing at which the governmental entity shall do at least one of the following:

1. Approve a plan to cease providing communications services;
2. Approve a plan to dispose of the system the governmental entity is using to provide communications services and, accordingly, to cease providing communications services;
3. Approve a plan to create a partnership with a private entity in order to achieve operations in which revenues exceed operating expenses and payment of principal and interest on debt; or
4. Approve the continuing provision of communications services.

(3)(a) A governmental entity that provides a cable service shall comply with the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq., the regulations issued by the Federal Communications Commission under the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq., and all applicable state and federal rules and regulations, including, but not limited to, section 166.046, Florida Statutes, and those provisions of chapters 202, 212, and 337, Florida Statutes, which apply to a provider of the services.

(b) A governmental entity that provides a telecommunications service or advanced service must comply, if applicable, with chapter 364, Florida Statutes, and rules adopted by the Public Service Commission; chapter 166, Florida Statutes; and all applicable state and federal rules and regulations, including, but not limited to, those provisions of chapters 202, 212, and 337, Florida Statutes, which apply to a provider of the services.

(c) A governmental entity may not exercise its power or authority in any area, including zoning or land use regulation, to require any person, including residents of a particular development, to use or subscribe to any communication service of a governmental entity.

(d) A governmental entity shall apply its ordinances, rules, and policies, and exercise any authority under state or federal laws, including, but not limited to, those relating to the following subjects and without discrimination as to itself when providing a communications service or to any private provider of communications services:

1. Access to public rights-of-way; and
2. Permitting, access to, use of, and payment for use of governmental entity-owned poles. The governmental entity is subject to the same terms, conditions, and fees, if any, for access to government-owned poles which the governmental entity applies to a private provider for access.

(4)(a) If a governmental entity was providing, as of April 1, 2005, advanced services, cable services, or telecommunications services, then it is not required to comply with paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), paragraph (2)(d), sub-subparagraph (2)(e)1.c., paragraph (2)(f), paragraph (2)(k), or paragraph (2)(l), in order to continue to provide advanced services, cable services, or telecommunications services, respectively, but it must comply with and be subject to all other provisions of this section.

(b) If a governmental entity, as of April 1, 2005, had issued debt pledging revenues from an advanced service, cable service, or telecommunications service, then it is not required to comply with paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), paragraph (2)(d), sub-subparagraph (2)(e)1.c., paragraph (2)(f), paragraph (2)(k), or paragraph (2)(l), in order to provide advanced services, cable services, or telecommunications services, respectively, but it must comply with and be subject to all other provisions of this section.

(c) If a governmental entity, as of April 1, 2005, has purchased equipment specifically for the provisioning of advanced service, cable service, or telecommunication service, and, as of May 6, 2005, has authorized the providing of an advanced service, cable service, or telecommunication service, then it is not required to comply with paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), paragraph (2)(d), sub-subparagraph

(2)(e)1.c., paragraph (2)(f), paragraph (2)(k), or paragraph (2)(l) in order to provide advanced service, cable service, or telecommunication service, respectively, but it must comply with and be subject to all other provisions of this section.

This subsection does not relieve a governmental entity from complying with subsection (5).

(5) Notwithstanding section 542.235, Florida Statutes, or any other law, a governmental entity that provides a communications service is subject to the same prohibitions applicable to private providers under sections 542.18 and 542.19, Florida Statutes, as it relates to providing a communications service. In addition, the exemption from complying with paragraph (2)(f), does not confer state action immunity, or any other antitrust immunity or exemption, on any governmental entity providing communications services.

(6) To ensure the safe and secure transportation of passengers and freight through an airport facility, as defined in section 159.27(17), Florida Statutes, an airport authority or other governmental entity that provides or is proposing to provide communications services only within the boundaries of its airport layout plan, as defined in section 333.01(6), Florida Statutes, to subscribers which are integral and essential to the safe and secure transportation of passengers and freight through the airport facility, is exempt from this section. An airport authority or other governmental entity that provides or is proposing to provide shared-tenant service under section 364.339, Florida Statutes, but not dial tone enabling subscribers to complete calls outside the airport layout plan, to one or more subscribers within its airport layout plan which are not integral and essential to the safe and secure transportation of passengers and freight through the airport facility is exempt from this section. An airport authority or other governmental entity that provides or is proposing to provide communications services to one or more subscribers within its airport layout plan which are not integral and essential to the safe and secure transportation of passengers and freight through the airport facility, or to one or more subscribers outside its airport layout plan, is not exempt from this section. By way of example and not limitation, the integral, essential subscribers may include airlines and emergency service entities, and the nonintegral, nonessential subscribers may include retail shops, restaurants, hotels, or rental car companies.

(7) This section does not alter or affect any provision in the charter, code, or other governing authority of a governmental entity that impose additional or different requirements on provision of communications service by a governmental entity. Any such provisions shall apply in addition to the applicable provisions in this section.

Section 9. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 10. Section 364.01, Florida Statutes, is amended to read:

364.01 Powers of commission, legislative intent.—

(1) The Florida Public Service Commission shall exercise over and in relation to telecommunications companies the powers conferred by this chapter.

(2) It is the legislative intent to give exclusive jurisdiction in all matters set forth in this chapter to the Florida Public Service Commission in regulating telecommunications companies, and such preemption shall supersede any local or special act or municipal charter where any conflict of authority may exist. However, the provisions of this chapter shall not affect the authority and powers granted in s. 166.231(9) or s. 337.401.

(3) Communications activities that are not regulated by the Florida Public Service Commission, including, but not limited to, VoIP, wireless, and broadband, are subject to this state's generally applicable business regulation and deceptive trade practices and consumer protection laws, as enforced by the appropriate state authority or through actions in the judicial system. This chapter does not limit the availability to any party of any remedy or defense under state or federal antitrust laws. The Legislature finds that the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications service, encourage

technological innovation, and encourage investment in telecommunications infrastructure. The Legislature further finds that the transition from the monopoly provision of local exchange service to the competitive provision thereof will require appropriate regulatory oversight to protect consumers and provide for the development of fair and effective competition, but nothing in this chapter shall limit the availability to any party of any remedy under state or federal antitrust laws. The Legislature further finds that changes in regulations allowing increased competition in telecommunications services could provide the occasion for increases in the telecommunications workforce; therefore, it is in the public interest that competition in telecommunications services lead to a situation that enhances the high-technological skills and the economic status of the telecommunications workforce. The Legislature further finds that the provision of voice-over-Internet protocol (VOIP) free of unnecessary regulation, regardless of the provider, is in the public interest.

(4) The commission shall exercise its exclusive jurisdiction in order to:

(a) Protect the public health, safety, and welfare by ensuring that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices.

(b) Encourage competition through flexible regulatory treatment among providers of telecommunications services in order to ensure the availability of the widest possible range of consumer choice in the provision of all telecommunications services.

(c) Protect the public health, safety, and welfare by ensuring that monopoly services provided by telecommunications companies continue to be subject to effective price, rate, and service regulation.

(d) Promote competition by encouraging *innovation and investment in new entrants into* telecommunications markets and by allowing a transitional period in which new *and emerging technologies entrants* are subject to a *reduced lesser* level of regulatory oversight ~~than local exchange telecommunications companies~~.

(e) Encourage all providers of telecommunications services to introduce new or experimental telecommunications services free of unnecessary regulatory restraints.

(f) Eliminate any rules ~~or~~ *and/or* regulations which will delay or impair the transition to competition.

(g) Ensure that all providers of telecommunications services are treated fairly, by preventing anticompetitive behavior and eliminating unnecessary regulatory restraint.

(h) Recognize the continuing emergence of a competitive telecommunications environment through the flexible regulatory treatment of competitive telecommunications services, where appropriate, if doing so does not reduce the availability of adequate basic local telecommunications service to all citizens of the state at reasonable and affordable prices, if competitive telecommunications services are not subsidized by monopoly telecommunications services, and if all monopoly services are available to all competitors on a nondiscriminatory basis.

(i) Continue its historical role as a surrogate for competition for monopoly services provided by local exchange telecommunications companies.

Section 11. Section 364.011, Florida Statutes, is created to read:

364.011 Exemptions from commission jurisdiction.—The following services are exempt from oversight by the commission, except to the extent delineated in this chapter or specifically authorized by federal law:

- (1) *Intrastate interexchange telecommunications services.*
- (2) *Broadband services, regardless of the provider, platform, or protocol.*
- (3) *VoIP.*
- (4) *Wireless telecommunications, including commercial mobile radio service providers.*

Section 12. Section 364.012, Florida Statutes, is created to read:

364.012 Consistency with federal law.—

(1) *In order to promote commission coordination with federal policy-makers and regulatory agencies, the commission shall maintain continuous liaisons with appropriate federal agencies whose policy decisions and rulemaking authority affect those telecommunications companies over which the commission has jurisdiction. The commission is encouraged to participate in the proceedings of federal agencies in cases in which the state's consumers may be affected and to convey the commission's policy positions and information requirements in order to achieve greater efficiency in regulation.*

(2) *This chapter does not limit or modify the duties of a local exchange carrier to provide unbundled access to network elements or the commission's authority to arbitrate and enforce interconnection agreements to the extent that those elements are required under 47 U.S.C. ss. 251 and 252, and under any regulations issued by the Federal Communications Commission at rates determined in accordance with the standards established by the Federal Communications Commission pursuant to 47 C.F.R. ss. 51.503-51.513, inclusive of any successor regulation or successor forbearance of regulation.*

Section 13. Section 364.013, Florida Statutes, is created to read:

364.013 Emerging and advanced services.—Broadband service and the provision of voice-over-Internet-protocol (VoIP) shall be free of state regulation, except as delineated in this chapter or as specifically authorized by federal law, regardless of the provider, platform, or protocol.

Section 14. Section 364.02, Florida Statutes, is amended to read:

364.02 Definitions.—As used in this chapter:

(1) "Basic local telecommunications service" means voice-grade, flat-rate residential, and flat-rate single-line business local exchange services which provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multifrequency dialing, and access to the following: emergency services such as "911," all locally available interexchange companies, directory assistance, operator services, relay services, and an alphabetical directory listing. For a local exchange telecommunications company, ~~the~~ *such* term shall include any extended area service routes, and extended calling service in existence or ordered by the commission on or before July 1, 1995.

(2) "*Broadband service*" means any service that consists of or includes the offering of the capability to transmit or receive information at a rate that is not less than 200 kilobits per second and either:

(a) *Is used to provide access to the Internet; or*

(b) *Provides computer processing, information storage, information content, or protocol conversion in combination with the service.*

The definition of broadband service does not include any intrastate telecommunications services that have been tariffed with the commission on or before January 1, 2005.

(3)(2) "Commercial mobile radio service provider" means a commercial mobile radio service provider as defined by and pursuant to 47 U.S.C. ss. 153(n) and 332(d).

(4)(3) "Commission" means the Florida Public Service Commission.

(5)(4) "Competitive local exchange telecommunications company" means any company certificated by the commission to provide local exchange telecommunications services in this state on or after July 1, 1995.

(6)(5) "Corporation" includes a corporation, company, association, or joint stock association.

(7)(6) "Intrastate interexchange telecommunications company" means any entity that provides intrastate interexchange telecommunications services.

(8)(7) "Local exchange telecommunications company" means any company certificated by the commission to provide local exchange telecommunications service in this state on or before June 30, 1995.

(9)(8) “Monopoly service” means a telecommunications service for which there is no effective competition, either in fact or by operation of law.

(10)(9) “Nonbasic service” means any telecommunications service provided by a local exchange telecommunications company other than a basic local telecommunications service, a local interconnection arrangement described in s. 364.16, or a network access service described in s. 364.163.

(11)(10) “Operator service” includes, but is not limited to, billing or completion of third-party, person-to-person, collect, or calling card or credit card calls through the use of a live operator or automated equipment.

(12)(11) “Operator service provider” means a person who furnishes operator service through a call aggregator.

(13)(12) “Service” is to be construed in its broadest and most inclusive sense. The term “service” does not include *broadband service* or *voice-over-Internet protocol service* for purposes of regulation by the commission. Nothing herein shall affect the rights and obligations of any entity related to the payment of switched network access rates or other intercarrier compensation, if any, related to *voice-over-Internet protocol service*. *Notwithstanding s. 364.013, and the exemption of services pursuant to this subsection, the commission may arbitrate, enforce, or approve interconnection agreements, and resolve disputes as provided by 47 U.S.C. ss. 251 and 252, or any other applicable federal law or regulation. With respect to the services exempted in this subsection, regardless of the technology, the duties of a local exchange telecommunications company are only those that the company is obligated to extend or provide under applicable federal law and regulations.*

(14)(13) “Telecommunications company” includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. The term “telecommunications company” does not include:

- (a) An entity which provides a telecommunications facility exclusively to a certificated telecommunications company;
- (b) An entity which provides a telecommunications facility exclusively to a company which is excluded from the definition of a telecommunications company under this subsection;
- (c) A commercial mobile radio service provider;
- (d) A facsimile transmission service;
- (e) A private computer data network company not offering service to the public for hire;
- (f) A cable television company providing cable service as defined in 47 U.S.C. s. 522; or
- (g) An intrastate interexchange telecommunications company.

However, each commercial mobile radio service provider and each intrastate interexchange telecommunications company shall continue to be liable for any taxes imposed ~~under pursuant to~~ chapters 202, 203, and 212 and any fees assessed ~~under pursuant to~~ ss. 364.025 and 364.336. Each intrastate interexchange telecommunications company shall continue to be subject to ss. 364.04, 364.10(3)(a) and (d), 364.163, 364.285, 364.501, 364.603, and 364.604, shall provide the commission with such current information as the commission deems necessary to contact and communicate with the company, shall continue to pay intrastate switched network access rates or other intercarrier compensation to the local exchange telecommunications company or the competitive local exchange telecommunications company for the origination and termination of interexchange telecommunications service, and shall reduce its intrastate long distance toll rates in accordance with s. 364.163(2).

(15)(14) “Telecommunications facility” includes real estate, easements, apparatus, property, and routes used and operated to provide two-way telecommunications service to the public for hire within this state.

(16) “VoIP” means the *voice-over-Internet protocol* as that term is defined in federal law.

Section 15. Section 364.0361, Florida Statutes, is amended to read:

364.0361 Local government authority; nondiscriminatory exercise.—A local government shall treat each telecommunications company in a nondiscriminatory manner when exercising its authority to grant franchises to a telecommunications company or to otherwise establish conditions or compensation for the use of rights-of-way or other public property by a telecommunications company. A local government may not directly or indirectly regulate the terms and conditions, including, but not limited to, the operating systems, qualifications, services, service quality, service territory, and prices, applicable to or in connection with the provision of any *voice-over-Internet protocol*, regardless of the *platform, provider, or protocol*, broadband or information service. This section does not relieve a provider from any obligations under s. 166.046 or s. 337.401.

Section 16. Section 364.10, Florida Statutes, is amended to read:

364.10 Undue advantage to person or locality prohibited; Lifeline service.—

(1) A telecommunications company may not make or give any undue or unreasonable preference or advantage to any person or locality or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(2)(a) The prohibitions of subsection (1) notwithstanding, ~~an eligible telecommunications carrier~~ ~~a telecommunications company serving as carrier of last resort~~ shall provide a Lifeline Assistance Plan to qualified residential subscribers, as defined in a commission-approved tariff or price list, and a preferential rate to eligible facilities as provided for in part II. *For the purposes of this section, the term “eligible telecommunications carrier” means a telecommunications company, as defined by s. 364.02, which is designated as an eligible telecommunications carrier by the commission pursuant to 47 C.F.R. s. 54.201.*

(b) *An eligible telecommunications carrier shall offer a consumer who applies for or receives Lifeline service the option of blocking all toll calls or, if technically capable, placing a limit on the number of toll calls a consumer can make. The eligible telecommunications carrier may not charge the consumer an administrative charge or other additional fee for blocking the service.*

(c) *An eligible telecommunications carrier may not collect a service deposit in order to initiate Lifeline service if the qualifying low-income consumer voluntarily elects toll blocking or toll limitation. If the qualifying low-income consumer elects not to place toll blocking on the line, an eligible telecommunications carrier may charge a service deposit.*

(d) *An eligible telecommunications carrier may not charge Lifeline subscribers a monthly number-portability charge.*

(e)1. *An eligible telecommunications carrier must notify a Lifeline subscriber of impending termination of Lifeline service if the company has a reasonable basis for believing that the subscriber no longer qualifies. Notification of pending termination must be in the form of a letter that is separate from the subscriber’s bill.*

2. *An eligible telecommunications carrier shall allow a subscriber 60 days following the date of the pending termination letter to demonstrate continued eligibility. The subscriber must present proof of continued eligibility. An eligible telecommunications carrier may transfer a subscriber off of Lifeline service, pursuant to its tariff, if the subscriber fails to demonstrate continued eligibility.*

3. *The commission shall establish procedures for such notification and termination.*

(f) *An eligible telecommunications carrier shall timely credit a consumer’s bill with the Lifeline Assistance credit as soon as practicable, but no later than 60 days following receipt of notice of eligibility from the Office of Public Counsel or proof of eligibility from the consumer.*

(3)(a) Effective September 1, 2003, any local exchange telecommunications company authorized by the commission to reduce its switched network access rate pursuant to s. 364.164 shall have tariffed and shall

provide Lifeline service to any otherwise eligible customer or potential customer who meets an income eligibility test at 135 ~~125~~ percent or less of the federal poverty income guidelines for Lifeline customers. Such a test for eligibility must augment, rather than replace, the eligibility standards established by federal law and based on participation in certain low-income assistance programs. Each intrastate interexchange telecommunications company shall, effective September 1, 2003, file a tariff providing at a minimum the intrastate interexchange telecommunications carrier's current Lifeline benefits and exemptions to Lifeline customers who meet the income eligibility test set forth in this subsection. The Office of Public Counsel shall certify and maintain claims submitted by a customer for eligibility under the income test authorized by this subsection.

(b) Each *eligible telecommunications carrier* ~~local exchange telecommunications company~~ subject to this subsection shall provide to each state and federal agency providing benefits to persons eligible for Lifeline service applications, brochures, pamphlets, or other materials that inform the ~~such~~ persons of their eligibility for Lifeline, and each state agency providing ~~the such~~ benefits shall furnish the materials to affected persons at the time they apply for benefits.

(c) Any local exchange telecommunications company customer receiving Lifeline benefits shall not be subject to any residential basic local telecommunications service rate increases authorized by s. 364.164 until the local exchange telecommunications company reaches parity as defined in s. 364.164(5) or until the customer no longer qualifies for the Lifeline benefits established by this section or s. 364.105, or unless otherwise determined by the commission upon petition by a local exchange telecommunications company.

(d) *An eligible telecommunications carrier may not discontinue basic local exchange telephone service to a subscriber who receives Lifeline service because of nonpayment by the subscriber of charges for nonbasic services billed by the telecommunications company, including long-distance service. A subscriber who receives Lifeline service shall be required to pay all applicable basic local exchange service fees, including the subscriber line charge, E-911, telephone relay system charges, and applicable state and federal taxes.*

(e) *An eligible telecommunications carrier may not refuse to connect, reconnect, or provide Lifeline service because of unpaid toll charges or nonbasic charges other than basic local exchange service.*

(f) *An eligible telecommunications carrier may require that payment arrangements be made for outstanding debt associated with basic local exchange service, subscriber line charges, E-911, telephone relay system charges, and applicable state and federal taxes.*

(g) *An eligible telecommunications carrier may block a Lifeline service subscriber's access to all long-distance service, except for toll-free numbers, and may block the ability to accept collect calls when the subscriber owes an outstanding amount for long-distance service or amounts resulting from collect calls. However, the eligible telecommunications carrier may not impose a charge for blocking long-distance service. The eligible telecommunications carrier shall remove the block at the request of the subscriber without additional cost to the subscriber upon payment of the outstanding amount. An eligible telecommunications carrier may charge a service deposit before removing the block.*

(h)(~~d~~) By December 31, 2003, each state agency that provides benefits to persons eligible for Lifeline service shall undertake, in cooperation with the Department of Children and Family Services, the Department of Education, the commission, the Office of Public Counsel, and telecommunications companies providing Lifeline services, the development of procedures to promote Lifeline participation.

(i)(~~e~~) The commission shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31 each year on the number of customers who are subscribing to Lifeline service and the effectiveness of any procedures to promote participation.

(j) *The commission shall adopt rules to administer this section.*

Section 17. *Section 364.502, Florida Statutes, is repealed.*

Section 18. Subsection (1) of section 364.335, Florida Statutes, is amended to read:

364.335 Application for certificate.—

(1) Each applicant for a certificate shall:

(a) Provide all information required by rule or order of the commission, which may include a detailed inquiry into the ability of the applicant to provide service, a detailed inquiry into the territory and facilities involved, and a detailed inquiry into the existence of service from other sources within geographical proximity to the territory applied for.

(b) File with the commission schedules showing all rates for service of every kind furnished by it and all rules and contracts relating to such service.

(c) File the application fee required by the commission in an amount not to exceed \$500 ~~\$250~~. Such fees shall be deposited in accordance with s. 350.113.

(d) Submit an affidavit that the applicant has caused notice of its application to be given to such persons and in such manner as may be prescribed by commission rule.

Section 19. Section 364.336, Florida Statutes, is amended to read:

364.336 Regulatory assessment fees.—Notwithstanding any provisions of law to the contrary, each telecommunications company licensed or operating under this chapter, for any part of the preceding 6-month period, shall pay to the commission, within 30 days following the end of each 6-month period, a fee that may not exceed 0.25 percent annually of its gross operating revenues derived from intrastate business, except, for purposes of this section and the fee specified in s. 350.113(3), any amount paid to another telecommunications company for the use of any telecommunications network shall be deducted from the gross operating revenue for purposes of computing the fee due. *The commission shall by rule assess a minimum fee in an amount up to \$1,000. The minimum amount may vary depending on the type of service provided by the telecommunications company, and shall, to the extent practicable, be related to the cost of regulating such type of company.* Differences, if any, between the amount paid in any 6-month period and the amount actually determined by the commission to be due shall, upon motion by the commission, be immediately paid or refunded. Fees under this section may not be less than \$50 annually. Such fees shall be deposited in accordance with s. 350.113. The commission may by rule establish criteria for payment of the regulatory assessment fee on an annual basis rather than on a semiannual basis.

Section 20. Subsection (6) of section 196.012, Florida Statutes, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, special district, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. For purposes of the preceding sentence, an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan which has been approved by the Federal Aviation Administration and which real property is used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed base operation which provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity which serves a governmental, municipal, or public purpose or function. Any activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as a public airport as defined in s. 332.004(14) by municipalities, agencies, special districts, authorities, or other public bodies corporate and public bodies politic of the state, a spaceport as defined in s. 331.303(19), or which is located in a deepwater port identified in s. 403.021(9)(b) and owned by one of the foregoing governmental units, subject to a leasehold or other possessory interest of a nongovernmental lessee that is deemed

to perform an aviation, airport, aerospace, maritime, or port purpose or operation shall be deemed an activity that serves a governmental, municipal, or public purpose. The use by a lessee, licensee, or management company of real property or a portion thereof as a convention center, visitor center, sports facility with permanent seating, concert hall, arena, stadium, park, or beach is deemed a use that serves a governmental, municipal, or public purpose or function when access to the property is open to the general public with or without a charge for admission. If property deeded to a municipality by the United States is subject to a requirement that the Federal Government, through a schedule established by the Secretary of the Interior, determine that the property is being maintained for public historic preservation, park, or recreational purposes and if those conditions are not met the property will revert back to the Federal Government, then such property shall be deemed to serve a municipal or public purpose. The term "governmental purpose" also includes a direct use of property on federal lands in connection with the Federal Government's Space Exploration Program or spaceport activities as defined in s. 212.02(22). Real property and tangible personal property owned by the Federal Government or the Florida Space Authority and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. "Owned by the lessee" as used in this chapter does not include personal property, buildings, or other real property improvements used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed based operation which provides goods and services to the general aviation public in the promotion of air commerce provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration. For purposes of determination of "ownership," buildings and other real property improvements which will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed "owned" by the governmental unit and not the lessee. Providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(15) ~~s. 364.02(14)~~, and for which a certificate is required under chapter 364 does not constitute an exempt use for purposes of s. 196.199, unless the telecommunications services are provided by the operator of a public-use airport, as defined in s. 332.004, for the operator's provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, or unless the telecommunications services are provided by a public hospital. However, property that is being used to provide such telecommunications services on or before October 1, 1997, shall remain exempt, but such exemption expires October 1, 2004.

Section 21. Paragraph (b) of subsection (1) of section 199.183, Florida Statutes, is amended to read:

199.183 Taxpayers exempt from annual and nonrecurring taxes.—

(1) Intangible personal property owned by this state or any of its political subdivisions or municipalities shall be exempt from taxation under this chapter. This exemption does not apply to:

(b) Property related to the provision of two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(15) ~~s. 364.02(14)~~, and for which a certificate is required under chapter 364, when ~~the such~~ service is provided by any county, municipality, or other political subdivision of the state. Any immunity of any political subdivision of the state or other entity of local government from taxation of the property used to provide telecommunication services that is taxed as a result of this paragraph is hereby waived. However, intangible personal property related to the provision of ~~such~~ telecommunications services provided by the operator of a public-use airport, as defined in s. 332.004, for the operator's provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, and intangible personal property related to the provision of ~~such~~ telecommunications services provided by a public hospital, are exempt from taxation under this chapter.

Section 22. Subsection (6) of section 212.08, Florida Statutes, is amended to read:

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

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—There are also exempt from the tax imposed by this chapter sales made to the United States Government, a state, or any county, municipality, or political subdivision of a state when payment is made directly to the dealer by the governmental entity. This exemption shall not inure to any transaction otherwise taxable under this chapter when payment is made by a government employee by any means, including, but not limited to, cash, check, or credit card when that employee is subsequently reimbursed by the governmental entity. This exemption does not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof when such tangible personal property goes into or becomes a part of public works owned by such government or political subdivision. A determination whether a particular transaction is properly characterized as an exempt sale to a government entity or a taxable sale to a contractor shall be based on the substance of the transaction rather than the form in which the transaction is cast. The department shall adopt rules that give special consideration to factors that govern the status of the tangible personal property before its affixation to real property. In developing these rules, assumption of the risk of damage or loss is of paramount consideration in the determination. This exemption does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in the generation, transmission, or distribution of electrical energy by systems owned and operated by a political subdivision in this state for transmission or distribution expansion. Likewise exempt are charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, videotapes, and transcriptions used in producing radio or television broadcasts. The exemption provided in this subsection does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(15) ~~s. 364.02(14)~~, and for which a certificate is required under chapter 364, which facility is owned and operated by any county, municipality, or other political subdivision of the state. Any immunity of any political subdivision of the state or other entity of local government from taxation of the property used to provide telecommunication services that is taxed as a result of this section is hereby waived. However, the exemption provided in this subsection includes transactions taxable under this chapter which are for use by the operator of a public-use airport, as defined in s. 332.004, in providing such telecommunications services for the airport or its tenants, concessionaires, or licensees, or which are for use by a public hospital for the provision of such telecommunications services.

Section 23. Subsection (8) of section 290.007, Florida Statutes, is amended to read:

290.007 State incentives available in enterprise zones.—The following incentives are provided by the state to encourage the revitalization of enterprise zones:

(8) Notwithstanding any law to the contrary, the Public Service Commission may allow public utilities and telecommunications companies to grant discounts of up to 50 percent on tariffed rates for services to small businesses located in an enterprise zone designated pursuant to s. 290.0065. Such discounts may be granted for a period not to exceed 5 years. For purposes of this subsection, the term "public utility" has the same meaning as in s. 366.02(1) and the term "telecommunications company" has the same meaning as in s. 364.02(14) ~~s. 364.02(13)~~.

Section 24. Subsection (3) of section 350.0605, Florida Statutes, is amended to read:

350.0605 Former commissioners and employees; representation of clients before commission.—

(3) For a period of 2 years following termination of service on the commission, a former member may not accept employment by or compensation from a business entity which, directly or indirectly, owns or controls a public utility regulated by the commission, from a public utility regulated by the commission, from a business entity which, directly or indirectly, is an affiliate or subsidiary of a public utility regulated by the commission or is an actual business competitor of a local exchange company or public utility regulated by the commission and is otherwise exempt from regulation by the commission under ss.

364.02(14) ~~364.02(13)~~ and 366.02(1), or from a business entity or trade association that has been a party to a commission proceeding within the 2 years preceding the member's termination of service on the commission. This subsection applies only to members of the Florida Public Service Commission who are appointed or reappointed after May 10, 1993.

Section 25. Subsection (4) of section 364.602, Florida Statutes, is amended to read:

364.602 Definitions.—For purposes of this part:

(4) "Originating party" means any person, firm, corporation, or other entity, including a telecommunications company or a billing clearinghouse, that provides any telecommunications service or information service to a customer or bills a customer through a billing party, except the term "originating party" does not include any entity specifically exempted from the definition of "telecommunications company" as provided in s. 364.02(14) ~~s. 364.02(13)~~.

Section 26. Subsection (5) of section 489.103, Florida Statutes, is amended to read:

489.103 Exemptions.—This part does not apply to:

(5) Public utilities, including special gas districts as defined in chapter 189, telecommunications companies as defined in s. 364.02(14) ~~s. 364.02(13)~~ and natural gas transmission companies as defined in s. 368.103(4), on construction, maintenance, and development work performed by their employees, which work, including, but not limited to, work on bridges, roads, streets, highways, or railroads, is incidental to their business. The board shall define, by rule, the term "incidental to their business" for purposes of this subsection.

Section 27. *This act may not be construed to limit the rights of local government or the duties of providers of cable service to comply with any and all requirements of federal, state, or local law, including, but not limited to, 47 U.S.C. s.541, s. 166.046, and s. 337.401.*

Section 28. Subsection (4) of section 364.051, Florida Statutes, is amended to read:

364.051 Price regulation.—

(4)(a) Notwithstanding ~~the provisions of~~ subsection (2), any local exchange telecommunications company that believes circumstances have changed substantially to justify any increase in the rates for basic local telecommunications services may petition the commission for a rate increase, but the commission shall grant ~~the such~~ petition only after an opportunity for a hearing and a compelling showing of changed circumstances. The costs and expenses of any government program or project required in part II ~~may shall~~ not be recovered under this subsection unless ~~the such~~ costs and expenses are incurred in the absence of a bid and subject to carrier-of-last-resort obligations as provided for in part II. The commission shall act upon ~~the any such~~ petition within 120 days ~~after of~~ its filing.

(b) *For purposes of this section, evidence of damage occurring to the lines, plants, or facilities of a local exchange telecommunications company that is subject to the carrier-of-last-resort obligations, which damage is the result of a tropical system occurring after June 1, 2005, and named by the National Hurricane Center, constitutes a compelling showing of changed circumstances.*

1. *A company may file a petition to recover its intrastate costs and expenses relating to repairing, restoring, or replacing the lines, plants, or facilities damaged by a named tropical system.*

2. *The commission shall verify the intrastate costs and expenses submitted by the company in support of its petition.*

3. *The company must show and the commission shall determine whether the intrastate costs and expenses are reasonable under the circumstances for the named tropical system.*

4. *A company having a storm-reserve fund may recover tropical-system-related costs and expenses from its customers only in excess of any amount available in the storm-reserve fund.*

5. *The commission may determine the amount of any increase that the company may charge its customers, but the charge per line item may not exceed 50 cents per month per customer line for a period of not more than 12 months.*

6. *The commission may order the company to add an equal line-item charge per access line to the billing statement of the company's retail basic local telecommunications service customers, its retail nonbasic telecommunications service customers, and, to the extent the commission determines appropriate, its wholesale loop unbundled network element customers. At the end of the collection period, the commission shall verify that the collected amount does not exceed the amount authorized by the order. If collections exceed the ordered amount, the commission shall order the company to refund the excess.*

7. *In order to qualify for filing a petition under this paragraph, a company with one million or more access lines, but fewer than three million access lines, must have tropical-system-related costs and expenses exceeding \$1.5 million, and a company with three million or more access lines must have tropical-system-related costs and expenses of \$5 million or more. A company with fewer than one million access lines is not required to meet a minimum damage threshold in order to qualify to file a petition under this paragraph.*

8. *A company may file only one petition for storm recovery in any 12-month period for the previous storm season, but the application may cover damages from more than one named tropical system.*

This paragraph is not intended to adversely affect the commission's consideration of any petition for an increase in basic rates to recover costs related to storm damage which was filed before the effective date of this act.

Section 29. This act shall take effect upon becoming a law except that the provisions that create new standards of conduct for Public Service Commission members and that create new penalties for violations involving such members shall apply only to actions occurring after that date.

And the title is amended as follows:

Delete everything before the enacting clause and insert: An act relating to regulation of communications; creating the Committee on Public Service Commission Oversight as a standing joint committee of the Legislature; providing for its membership, powers, and duties; amending s. 350.001, F.S.; requiring that the commission perform its duties independently; amending s. 350.031, F.S.; authorizing the Florida Public Service Commission Nominating Council to make expenditures to advertise a vacancy on the council or the commission; requiring that the Committee on Public Service Commission Oversight provide nominees for recommendation to the Governor for appointment to the Public Service Commission; providing procedures; amending s. 350.041, F.S.; clarifying the prohibition against accepting gifts with respect to its application to commissioners attending conferences; requiring that a penalty be imposed against a person who gives a commissioner a prohibited gift; requiring that commissioners avoid impropriety and act in a manner that promotes confidence in the commission; prohibiting a commissioner from soliciting any thing of value, either directly or indirectly, from any public utility, its affiliate, or any party; amending s. 350.042, F.S.; requiring that a penalty be imposed against a person involved in a prohibited ex parte communication with a commissioner; amending s. 350.061, F.S.; requiring that the Committee on Public Service Commission Oversight rather than the Joint Legislative Auditing Committee appoint the Public Counsel; providing for biennial reconfirmation rather than annual; requiring that the Public Counsel perform his or her duties independently; amending s. 350.0614, F.S.; requiring that the Committee on Public Service Commission Oversight rather than the Joint Legislative Auditing Committee oversee expenditures of the Public Counsel; providing definitions; providing for notice of public hearings to consider whether the local government will provide a communications service; requiring a governmental entity to take certain action before a communications service is provided; providing certain restrictions on revenue bonds to finance provisioning of communications services; requiring a local government to make available a written business plan; providing criteria for the business plan; setting pricing standards; providing for accounting and books and records; requiring the governmental entity to establish an enterprise fund; requiring the governmental entity to maintain separate operating and capital budgets; limiting the use of eminent domain powers; requiring a governmental entity to hold a public hearing

to consider certain factors if the business plan goals are not met; requiring compliance with certain federal and state laws; requiring local government to treat itself the same as it treats other providers of similar communications services; exempting certain governmental entities from specified provisions of the act; requiring a local government provider of communications services to follow the same prohibitions as other providers of the same services; providing an exemption for airports under certain conditions; recognizing preemption of a charter, code, or other governmental authority; providing for severability; repealing s. 364.502, F.S., which provides for regulation of video programming; amending s. 364.01, F.S.; specifying the exclusive jurisdiction of the Florida Public Service Commission to regulate telecommunications companies; providing that state laws governing business and consumer protection be applied to communications activities that are not regulated by the commission; revising provisions governing the exclusive jurisdiction of the commission; creating s. 364.011, F.S.; specifying certain services that are exempt from oversight by the commission; creating s. 364.012, F.S.; requiring the commission to coordinate with federal agencies; providing that ch. 364, F.S., does not limit or modify certain duties of a local exchange carrier; creating s. 364.013, F.S.; requiring that broadband service remain free of state and local regulation; requiring that voice-over-Internet protocol remain free of regulation, except as specifically provided in ch. 364, F.S., or by federal law; amending s. 364.02, F.S.; defining the terms "broadband service" and "VoIP"; redefining the term "service"; amending s. 364.0361, F.S.; prohibiting a local government from regulating voice-over-Internet protocol regardless of the platform or provider; amending s. 364.10, F.S.; transferring applicability from telecommunications companies serving as carriers of last resort to eligible telecommunications carriers; defining the term "eligible telecommunications carrier"; providing requirements for eligible telecommunications carriers; requiring the Public Service Commission to establish procedures for notification and termination of the Lifeline Assistance credit; providing criteria for connection, reconnection, and discontinuation of basic local telecommunications service for Lifeline Assistance subscribers; providing criteria for blocking access to long-distance service; adding the Department of Education and the Office of Public Counsel to those agencies that are directed to cooperate in developing procedures for promoting Lifeline participation; requiring the commission to adopt rules; repealing s. 364.502, F.S., relating to video programming services; amending s. 364.335, F.S.; increasing to \$500 from \$250 the maximum allowable filing fee for certification of telecommunications carriers; amending s. 364.336, F.S.; authorizing the Public Service Commission to establish a minimum fee of up to \$1,000; authorizing different fees for different types of services provided by telecommunications companies; amending ss. 196.012, 199.183, 212.08, 290.007, 350.0605, 364.602, and 489.103, F.S.; conforming cross-references; providing clarification of rights of local governments and duties of cable service providers to comply with certain laws and regulations; amending s. 364.051, F.S.; providing that damage to the equipment and facilities of a local exchange telecommunications as a result of a named tropical system constitutes a compelling showing of changed circumstances to justify a rate increase; allowing such companies to petition for recovery of such costs and expenses; requiring the Public Service Commission to verify the intrastate costs and expenses for repairing, restoring, or replacing damaged lines, plants, or facilities; requiring the commission to determine whether the intrastate costs and expenses are reasonable; requiring a company to exhaust any storm-reserve funds prior to recovery from customers; providing that the commission may authorize adding an equal line-item charge per access line for certain customers; providing for a rate cap and providing the maximum number of months the rate may be imposed; providing a 12-month limit for the application; allowing recovery for more than one storm within the limit; providing an effective date.

MOTION

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

Senator Fasano moved the following amendment to **Amendment 1** which failed:

Amendment 1A (524956)(with title amendment)—On page 45, line 16 through page 47, line 25, delete section 28 and renumber subsequent sections.

And the title is amended as follows:

On page 52, lines 20-28, delete those lines and insert: with certain laws and regulations; requiring the Public Service

The question recurred on **Amendment 1** which was adopted.

On motion by Senator Constantine, by two-thirds vote **HB 1649** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Garcia	Posey
Alexander	Geller	Pruitt
Aronberg	Haridopolos	Rich
Atwater	Hill	Saunders
Baker	Jones	Sebesta
Bennett	King	Smith
Bullard	Klein	Villalobos
Campbell	Lawson	Webster
Clary	Lynn	Wilson
Constantine	Margolis	Wise
Diaz de la Portilla	Miller	
Dockery	Peaden	

Nays—6

Argenziano	Crist	Fasano
Carlton	Dawson	Siplin

Consideration of **CS for SB 2432** was deferred.

HB 135—A bill to be entitled An act relating to liability of providers of streetlights; creating s. 768.1382, F.S.; providing definitions; including certain security or area lights within the definition of the term "streetlight"; limiting liability of a streetlight provider for injury or death or property damage affected or caused by a malfunctioning streetlight; providing procedures for notice and repair of malfunctioning streetlights as a condition for limited liability; providing that noncompliance with such procedures does not create a presumption of negligence; limiting liability of a public utility or electric utility that discontinues service to a streetlight under certain circumstances; limiting liability of a public utility or electric utility for the design, layout, quantity, or placement of streetlights or level of illumination resulting from the proper operation of a streetlight or series of streetlights; prohibiting certain findings of fault of an entity not a party to litigation; providing for conflict, effect, and application; providing an effective date.

—was read the third time by title.

On motion by Senator Webster, **HB 135** was passed and certified to the House. The vote on passage was:

Yeas—37

Alexander	Diaz de la Portilla	Posey
Argenziano	Dockery	Pruitt
Aronberg	Fasano	Rich
Atwater	Garcia	Saunders
Baker	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	King	Webster
Clary	Klein	Wilson
Constantine	Lawson	Wise
Crist	Lynn	
Dawson	Peaden	

Nays—1

Miller

On motion by Senator Webster, by two-thirds vote **HB 1019** was withdrawn from the Committees on Health Care; Commerce and Consumer Services; and Judiciary.

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

HB 1019—A bill to be entitled An act relating to asbestos and silica claims; providing a popular name; providing legislative findings; providing purposes; providing definitions; requiring physical impairment as an essential element of a claim; providing criteria for prima facie evidence of physical impairment for claims and certain actions; providing an exception; providing additional requirements for evidence relating to physical impairment; specifying absence of certain presumptions at trial; providing procedures for claims and certain actions; providing for consolidation; providing for venue; providing for preliminary proceedings; requiring new asbestos and silica claims to include certain information; specifying certain limitation periods for certain claims; specifying distinct causes of action for certain conditions; limiting damages under certain circumstances; prohibiting a general release from liability; prohibiting award of punitive damages; providing for collateral source payments; specifying liability rules applicable to certain persons; providing construction; providing legislative intent; providing severability; providing application to certain civil actions; providing an effective date.

—a companion measure, was substituted for **CS for SB 2562** as amended and read the second time by title.

MOTION

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

Senator Webster moved the following amendment:

Amendment 1 (524102)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *Short title.*—This act may be cited as the “Asbestos and Silica Compensation Fairness Act”.

Section 2. *Purpose.*—It is the purpose of this act to:

(1) Give priority to true victims of asbestos and silica, claimants who can demonstrate actual physical impairment caused by exposure to asbestos or silica;

(2) Fully preserve the rights of claimants who were exposed to asbestos or silica to pursue compensation if they become impaired in the future as a result of the exposure;

(3) Enhance the ability of the judicial system to supervise and control asbestos and silica litigation; and

(4) Conserve the scarce resources of the defendants to allow compensation to cancer victims and others who are physically impaired by exposure to asbestos or silica while securing the right to similar compensation for those who may suffer physical impairment in the future.

Section 3. *Definitions.*—As used in this act, the term:

(1) “AMA Guides to the Evaluation of Permanent Impairment” means the American Medical Association’s Guides to the Evaluation of Permanent Impairment.

(2) “Asbestos” includes all minerals defined as ‘asbestos’ in 29 C.F.R. section 1910, as amended.

(3) “Asbestos claim” means a claim for damages or other civil or equitable relief presented in a civil action, arising out of, based on, or related to the health effects of exposure to asbestos, including loss of consortium, wrongful death, and any other derivative claim made by or on behalf of an exposed person or a representative, spouse, parent, child, or other relative of an exposed person. The term does not include claims for benefits under a workers’ compensation law or veterans’ benefits program, or claims brought by a person as a subrogee by virtue of the payment of benefits under a workers’ compensation law.

(4) “Asbestosis” means bilateral diffuse interstitial fibrosis of the lungs caused by inhalation of asbestos fibers.

(5) “Board-certified in internal medicine” means a physician who is certified by the American Board of Internal Medicine or the American Osteopathic Board of Internal Medicine.

(6) “Board-certified in occupational medicine” means a physician who is certified in the subspecialty of occupational medicine by the American Board of Preventive Medicine or the American Osteopathic Board of Preventive Medicine.

(7) “Board-certified in oncology” means a physician who is certified in the subspecialty of medical oncology by the American Board of Internal Medicine or the American Osteopathic Board of Internal Medicine.

(8) “Board-certified in pathology” means a physician who holds primary certification in anatomic pathology or clinical pathology from the American Board of Pathology or the American Osteopathic Board of Internal Medicine and whose professional practice:

(a) Is principally in the field of pathology; and

(b) Involves regular evaluation of pathology materials obtained from surgical or postmortem specimens.

(9) “Board-certified in pulmonary medicine” means a physician who is certified in the subspecialty of pulmonary medicine by the American Board of Internal Medicine or the American Osteopathic Board of Internal Medicine.

(10) “Bankruptcy proceeding” means a case brought under Title 11, United States Code, or any related proceeding as provided in section 157 of Title 28, United States Code.

(11) “Certified B-reader” means an individual qualified as a “final” or “B-reader” under 42 C.F.R. section 37.51(b), as amended.

(12) “Civil action” means all suits or claims of a civil nature in court, whether cognizable as cases at law or in equity or in admiralty. The term does not include an action relating to a workers’ compensation law, or a proceeding for benefits under a veterans’ benefits program.

(13) “Exposed person” means a person whose exposure to asbestos or to asbestos-containing products is the basis for an asbestos claim.

(14) “FEV1” means forced expiratory volume in the first second, which is the maximal volume of air expelled in one second during performance of simple spirometric tests.

(15) “FVC” means forced vital capacity, which is the maximal volume of air expired with maximum effort from a position of full inspiration.

(16) “ILO Scale” means the system for the classification of chest x-rays set forth in the International Labour Office’s Guidelines for the Use of ILO International Classification of Radiographs of Pneumoconioses.

(17) “Lung cancer” means a malignant tumor in which the primary site of origin of the cancer is inside of the lungs, but the term does not include an asbestos claim based upon mesothelioma.

(18) “Mesothelioma” means a malignant tumor with a primary site in the pleura or the peritoneum, which has been diagnosed by a board-certified pathologist, using standardized and accepted criteria of microscopic morphology or appropriate staining techniques.

(19) “Nonmalignant condition” means any condition that can be caused by asbestos or silica other than a diagnosed cancer.

(20) “Nonsmoker” means the exposed person has not smoked cigarettes or used other tobacco products on a consistent and frequent basis within the last 15 years.

(21) “Pathological evidence of asbestosis” means a statement by a board-certified pathologist that more than one representative section of lung tissue uninvolved with any other disease process demonstrates a pattern of peribronchiolar or parenchymal scarring in the presence of characteristic asbestos bodies and that there is no other more likely explanation for the presence of the fibrosis.

(22) “Predicted lower limit of normal” for any test means the fifth percentile of healthy populations based on age, height, and gender, as referenced in the AMA Guides to the Evaluation of Permanent Impairment.

(23) “Qualified physician” means a medical doctor, who:

(a) Is currently a board-certified oncologist, pathologist, pulmonary specialist, or specialist in occupational and environmental medicine;

(b) Has conducted a physical examination of the exposed person, or if the person is deceased, has reviewed all available records relating to the exposed person's medical condition;

(c) Is actually treating or treated the exposed person, and has or had a doctor-patient relationship with the person; and

(d) Is currently licensed to practice and actively practices in this country.

(24) "Radiological evidence of asbestosis" means a quality 1 chest x-ray under the ILO System of classification (in a death case where no pathology is available, the necessary radiologic findings may be made with a quality 2 film if a quality 1 film is not available) showing small, irregular opacities (s, t, u) graded by a certified B-reader as at least 1/1 on the ILO scale.

(25) "Radiological evidence of diffuse pleural thickening" means a quality 1 chest x-ray under the ILO System of classification (in a death case where no pathology is available, the necessary radiologic findings may be made with a quality 2 film if a quality 1 film is not available) showing bilateral pleural thickening of at least B2 on the ILO scale and blunting of at least one costophrenic angle.

(26) "Silica" means a respirable crystalline form of silicon dioxide, including, but not limited to, alpha, quartz, cristobalite, and trydymite.

(27) "Silica claim" means a claim for damages or other civil or equitable relief presented in a civil action, arising out of, based on, or related to the health effects of exposure to silica, including loss of consortium, wrongful death, and any other derivative claim made by or on behalf of an exposed person or a representative, spouse, parent, child, or other relative of an exposed person. The term does not include claims for benefits under a workers' compensation law or veterans' benefits program, or claims brought by a person as a subrogee by virtue of the payment of benefits under a workers' compensation law.

(28) "Silicosis" means nodular interstitial fibrosis of the lungs caused by inhalation of silica.

(29) "Smoker" means a person who has smoked cigarettes or used other tobacco products on a consistent and frequent basis within the last 15 years.

(30) "Substantial occupational exposure" means employment for an extended period of time in industries and occupations in which, for a substantial portion of a normal work year for that occupation, the exposed person did any of the following:

(a) Handled raw asbestos fibers;

(b) Fabricated asbestos-containing products so that the person was exposed to raw asbestos fibers in the fabrication process;

(c) Altered, repaired, or otherwise worked with an asbestos-containing product in a manner that exposed the person on a regular basis to asbestos fibers; or

(d) Worked in close proximity to other persons engaged in any of the activities described in paragraphs (a)-(c) in a manner that exposed the person on a regular basis to asbestos fibers.

(31) "Veterans benefits program" means a program for benefits in connection with military service administered by the Veterans' Administration under Title 38, United States Code.

(32) "Workers' compensation law" means a law respecting a program administered by this state or the United States to provide benefits, funded by a responsible employer or its insurance carrier, for occupational diseases or injuries or for disability or death caused by occupational diseases or injuries. The term includes the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. sections 901-944, 948-950, and the Federal Employees Compensation Act, chapter 81 of Title 5, United States Code, but does not include the Act of April 22, 1908, the Federal Employers Liability Act, 45 U.S.C. 51 et seq.

Section 4. Physical impairment.—

(1) Physical impairment of the exposed person, to which asbestos or silica exposure was a substantial contributing factor, is an essential element of an asbestos or silica claim.

(2) A person may not file or maintain a civil action alleging a nonmalignant asbestos claim in the absence of a prima facie showing of physical impairment as a result of a medical condition to which exposure to asbestos was a substantial contributing factor. The prima facie showing must include all of the following requirements:

(a) Evidence verifying that a qualified physician, or someone working under the direct supervision and control of a qualified physician, has taken a detailed occupational and exposure history of the exposed person or, if the person is deceased, from a person who is knowledgeable about the exposures that form the basis of the nonmalignant asbestos claim, including:

1. Identification of all of the exposed person's principal places of employment and exposures to airborne contaminants; and

2. Whether each place of employment involved exposures to airborne contaminants, including but not limited to asbestos fibers or other disease causing dusts, that can cause pulmonary impairment and the nature, duration and level of any such exposure.

(b) Evidence verifying that a qualified physician, or someone working under the direct supervision and control of a qualified physician, has taken detailed medical and smoking history, including a thorough review of the exposed person's past and present medical problems and their most probable cause.

(c) Evidence sufficient to demonstrate that at least 10 years have elapsed between the date of first exposure to asbestos and the date the diagnosis is made.

(d) A determination by a qualified physician, on the basis of a medical examination and pulmonary function testing, that the exposed person has a permanent respiratory impairment rating of at least Class 2 as defined by and evaluated pursuant to the AMA Guides to the Evaluation of Permanent Impairment.

(e) A diagnosis by a qualified physician of asbestosis or diffuse pleural thickening, based at a minimum on radiological or pathological evidence of asbestosis or radiological evidence of diffuse pleural thickening.

(f) A determination by a qualified physician that asbestosis or diffuse pleural thickening, rather than chronic obstructive pulmonary disease, is a substantial contributing factor to the exposed person's physical impairment, based at a minimum on a determination that the exposed person has:

1. Total lung capacity, by plethysmography or timed gas dilution, below the predicted lower limit of normal;

2. Forced vital capacity below the lower limit of normal and a ratio of FEV1 to FVC that is equal to or greater than the predicted lower limit of normal; or

3. A chest x-ray showing small, irregular opacities (s, t, u) graded by a certified B-reader at least 2/1 on the ILO scale.

(g) If the exposed person meets the requirements of paragraphs (a), (b), and (c), and if a qualified physician determines that the exposed person has a physical impairment, as demonstrated by meeting the criteria set forth in paragraphs (d) and (f) 1. or 2., but the exposed person's chest x-ray does not demonstrate radiological evidence of asbestosis, the exposed person may meet the criteria of paragraph (e) if his or her chest x-ray is graded by a certified B-reader as at least 1/0 and a qualified physician, relying on high-resolution computed tomography, determines to a reasonable degree of medical certainty that the exposed person has asbestosis and forms the conclusion set forth in paragraph (h).

(h) A conclusion by a qualified physician that the exposed person's medical findings and impairment were not more probably the result of causes other than the asbestos exposure revealed by the exposed person's employment and medical history. A diagnosis that states that the medical findings and impairment are "consistent with" or "compatible with" exposure to asbestos does not meet the requirements of this subsection.

(i) If a plaintiff files a civil action alleging a nonmalignant asbestos claim, and that plaintiff alleges that his or her exposure to asbestos was the result of extended contact with another exposed person who, if the civil action had been filed by the other exposed person, would have met the requirements of paragraph (a) and the plaintiff alleges that he or she had extended contact with the exposed person during the time period in which that exposed person met the requirements of paragraph (a), the plaintiff has satisfied the requirements of paragraph (a). The plaintiff in such a civil action must individually satisfy the requirements of paragraphs (b), (c), (d), (e), (f), (g), and (h).

(3) A person who is a smoker may not file or maintain a civil action alleging an asbestos claim which is based upon cancer of the lung, larynx, pharynx, or esophagus in the absence of a prima facie showing that includes all of the following requirements:

(a) A diagnosis by a qualified physician who is board-certified in pathology, pulmonary medicine, or oncology, as appropriate for the type of cancer claimed, of a primary cancer of the lung, larynx, pharynx, or esophagus, and that exposure to asbestos was a substantial contributing factor to the condition.

(b) Evidence sufficient to demonstrate that at least 10 years have elapsed between the date of first exposure to asbestos and the date of diagnosis of the cancer.

(c) Radiological or pathological evidence of asbestosis or diffuse pleural thickening or a qualified physician's diagnosis of asbestosis based on a chest x-ray graded by a certified B-reader as at least 1/0 on the ILO scale and high-resolution computed tomography supporting the diagnosis of asbestosis to a reasonable degree of medical certainty.

(d) Evidence of the exposed person's substantial occupational exposure to asbestos. If a plaintiff files a civil action alleging an asbestos-related claim based on cancer of the lung, larynx, pharynx, or esophagus, and that plaintiff alleges that his or her exposure to asbestos was the result of extended contact with another exposed person who, if the civil action had been filed by the other exposed person, would have met the substantial occupational exposure requirement of this subsection, and the plaintiff alleges that he or she had extended contact with the exposed person during the time period in which that exposed person met the substantial occupational exposure requirement of this subsection, the plaintiff has satisfied the requirements of this paragraph. The plaintiff in such a civil action must individually satisfy the requirements of this subsection.

(e) If the exposed person is deceased, the qualified physician, or someone working under the direct supervision and control of a qualified physician, may obtain the evidence required in paragraph (b) and paragraph (d) from the person most knowledgeable about the alleged exposures that form the basis of the asbestos claim.

(f) A conclusion by a qualified physician that the exposed person's medical findings and impairment were not more probably the result of causes other than the asbestos exposure revealed by the exposed person's employment and medical history. A conclusion that the medical findings and impairment are "consistent with" or "compatible with" exposure to asbestos does not meet the requirements of this subsection.

(4) In a civil action alleging an asbestos claim by a nonsmoker based on cancer of the lung, larynx, pharynx, or esophagus, a prima facie showing of an impairment due to asbestos exposure is not required.

(5) A person may not file or maintain a civil action alleging an asbestos claim which is based on cancer of the colon, rectum, or stomach in the absence of a prima facie showing that includes all of the following requirements:

(a) A diagnosis by a qualified physician who is board-certified in pathology, pulmonary medicine, or oncology, as appropriate for the type of cancer claimed, of cancer of the colon, rectum, or stomach, and that exposure to asbestos was a substantial contributing factor to the condition.

(b) Evidence sufficient to demonstrate that at least 10 years have elapsed between the date of first exposure to asbestos and the date of diagnosis of the cancer.

(c)1.a. Radiological or pathological evidence of asbestosis or diffuse pleural thickening or a qualified physician's diagnosis of asbestosis

based on a chest x-ray graded by a certified B-reader as at least 1/0 on the ILO scale and high-resolution computed tomography supporting the diagnosis of asbestosis to a reasonable degree of medical certainty; or

b. Evidence of the exposed person's substantial occupational exposure to asbestos. If a plaintiff files a civil action alleging an asbestos-related claim based on cancer of the colon, rectum, or stomach, and that plaintiff alleges that his or her exposure to asbestos was the result of extended contact with another exposed person who, if the civil action had been filed by the other exposed person, would have met the substantial occupational exposure requirement of this subsection, and the plaintiff alleges that he or she had extended contact with the exposed person during the time period in which that exposed person met the substantial occupational exposure requirement of this subsection, the plaintiff has satisfied the requirements of this sub-subparagraph. The plaintiff in such a civil action must individually satisfy the requirements of this subsection.

2. In the case of an exposed person who is a smoker, the criteria in sub-subparagraphs 1.a. and b. must be met.

3. If the exposed person is deceased, the qualified physician, or someone working under the direct supervision and control of a qualified physician, may obtain the evidence required in sub-subparagraph 1.b. and paragraph (b) from the person most knowledgeable about the alleged exposures that form the basis of the asbestos claim.

(d) A conclusion by a qualified physician that the exposed person's medical findings and impairment were not more probably the result of causes other than the asbestos exposure revealed by the exposed person's employment and medical history. A conclusion that the medical findings and impairment are "consistent with" or "compatible with" exposure to asbestos does not meet the requirements of this subsection.

(6) In a civil action alleging an asbestos claim based upon mesothelioma a prima facie showing of an impairment due to asbestos exposure is not required.

(7) A person may not file or maintain a civil action alleging a silicosis claim in the absence of a prima facie showing of physical impairment as a result of a medical condition to which exposure to silica was a substantial contributing factor. The prima facie showing must include all of the following requirements:

(a) Evidence verifying that a qualified physician, or someone working under the direct supervision and control of a qualified physician, has taken a detailed occupational and exposure history of the exposed person or, if the person is deceased, from a person who is knowledgeable about the exposures that form the basis of the nonmalignant silica claim, including:

1. All of the exposed person's principal places of employment and exposures to airborne contaminants; and

2. Whether each place of employment involved exposures to airborne contaminants, including but not limited to silica particles or other disease causing dusts, that can cause pulmonary impairment and the nature, duration, and level of any such exposure.

(b) Evidence verifying that a qualified physician, or someone working under the direct supervision and control of a qualified physician, has taken detailed medical and smoking history, including a thorough review of the exposed person's past and present medical problems and their most probable cause, and verifying a sufficient latency period for the applicable stage of silicosis.

(c) A determination by a qualified physician, on the basis of a medical examination and pulmonary function testing, that the exposed person has a permanent respiratory impairment rating of at least Class 2 as defined by and evaluated pursuant to the AMA Guides to the Evaluation of Permanent Impairment.

(d) A determination by a qualified physician that the exposed person has:

1. A quality 1 chest x-ray under the ILO System of classification and that the x-ray has been read by a certified B-reader as showing, according to the ILO System of classification, bilateral nodular opacities (p, q, or r) occurring primarily in the upper lung fields, graded 1/1 or higher; or

2. *Pathological demonstration of classic silicotic nodules exceeding one centimeter in diameter as published in 112 Archive of Pathology and Laboratory Medicine 7 (July 1988).*

In a death case where no pathology is available, the necessary radiologic findings may be made with a quality 2 film if a quality 1 film is not available.

(e) *A conclusion by a qualified physician that the exposed person's medical findings and impairment were not more probably the result of causes other than silica exposure revealed by the exposed person's employment and medical history. A conclusion that the medical findings and impairment are "consistent with" or "compatible with" exposure to silica does not meet the requirements of this subsection.*

(8) *A person may not file or maintain a civil action alleging a silica claim other than as provided in subsection (5), in the absence of a prima facie showing that includes all of the following requirements:*

(a) *A report by a qualified physician who is:*

1. *Board-certified in pulmonary medicine, internal medicine, oncology, or pathology stating a diagnosis of the exposed person of silica-related lung cancer and stating that, to a reasonable degree of medical probability, exposure to silica was a substantial contributing factor to the diagnosed lung cancer; or*

2. *Board-certified in pulmonary medicine, internal medicine, or pathology stating a diagnosis of the exposed person of silica-related progressive massive fibrosis or acute silicoproteinosis, or silicosis complicated by documented tuberculosis.*

(b) *Evidence verifying that a qualified physician, or someone working under the direct supervision and control of a qualified physician, has taken a detailed occupational and exposure history of the exposed person or, if the person is deceased, from a person who is knowledgeable about the exposures that form the basis of the nonmalignant silica claim, including:*

1. *All of the exposed person's principal places of employment and exposures to airborne contaminants; and*

2. *Whether each place of employment involved exposures to airborne contaminants, including but not limited to, silica particles or other disease causing dusts, that can cause pulmonary impairment and the nature, duration and level of any such exposure.*

(c) *Evidence verifying that a qualified physician, or someone working under the direct supervision and control of a qualified physician, has taken detailed medical and smoking history, including a thorough review of the exposed person's past and present medical problems and their most probable cause;*

(d) *A determination by a qualified physician that the exposed person has:*

1. *A quality 1 chest x-ray under the ILO System of classification and that the x-ray has been read by a certified B-reader as showing, according to the ILO System of classification, bilateral nodular opacities (p, q, or r) occurring primarily in the upper lung fields, graded 1/1 or higher; or*

2. *Pathological demonstration of classic silicotic nodules exceeding one centimeter in diameter as published in 112 Archive of Pathology and Laboratory Medicine 7 (July 1988).*

In a death case where no pathology is available, the necessary radiologic findings may be made with a quality 2 film if a quality 1 film is not available.

(e) *A conclusion by a qualified physician that the exposed person's medical findings and impairment were not more probably the result of causes other than silica exposure revealed by the exposed person's employment and medical history. A conclusion that the medical findings and impairment are "consistent with" or "compatible with" exposure to silica does not meet the requirements of this subsection.*

(9) *Evidence relating to physical impairment under this section, including pulmonary function testing and diffusing studies, must:*

(a) *Comply with the technical recommendations for examinations, testing procedures, quality assurance, quality control, and equipment of*

the AMA Guides to the Evaluation of Permanent Impairment, as set forth in 2d C.F.R. Part 404, subpart. P. Appl., part A, section 3.00 E. and F., and the interpretive standards, set forth in the official statement of the American Thoracic Society entitled "lung function testing: selection of reference values and interpretive strategies" as published in American Review of Respiratory Disease. 1991: 144:1202-1218;

(b) *Not be obtained through testing or examinations that violate any applicable law, regulation, licensing requirement, or medical code of practice; and*

(c) *Not be obtained under the condition that the exposed person retain legal services in exchange for the examination, test, or screening.*

(10) *Presentation of prima facie evidence meeting the requirements of subsection (2), (3), (5), or (6) of this section may not:*

(a) *Result in any presumption at trial that the exposed person is impaired by an asbestos-related or silica-related condition;*

(b) *Be conclusive as to the liability of any defendant; and*

(c) *Be admissible at trial.*

Section 5. Claimant proceedings.—

(1) *A civil action alleging an asbestos or silica claim may be brought in the courts of this state if the plaintiff is domiciled in this state or the exposure to asbestos or silica that is a substantial contributing factor to the physical impairment of the plaintiff on which the claim is based occurred in this state.*

(2) *A plaintiff in a civil action alleging an asbestos or silica claim must include with the complaint or other initial pleading a written report and supporting test results constituting prima facie evidence of the exposed person's asbestos-related or silica-related physical impairment meeting the requirements of subsection (2), subsection (3), subsection (5), or subsection (6) of section 4. For any asbestos or silica claim pending on the effective date of this act, the plaintiff must file the report and supporting test results at least 30 days before setting a date for trial. The defendant must be afforded a reasonable opportunity to challenge the adequacy of the proffered prima facie evidence of asbestos-related impairment. The claim of the plaintiff shall be dismissed without prejudice upon a finding of failure to make the required prima facie showing.*

(3) *All asbestos claims and silica claims filed in this state on or after the effective date of this act must include, in addition to the written report described in subsection (3) of section 5 and the information required by subsection (2) of section 7, a sworn information form containing the following information:*

(a) *The claimant's name, address, date of birth, social security number, and marital status;*

(b) *If the claimant alleges exposure to asbestos or silica through the testimony of another person or alleges other than direct or bystander exposure to a product, the name, address, date of birth, social security number, marital status, for each person by which the claimant alleges exposure, hereinafter the "index person," and the claimant's relationship to each such person;*

(c) *The specific location of each alleged exposure;*

(d) *The beginning and ending dates of each alleged exposure as to each asbestos product or silica product for each location at which exposure allegedly took place for the plaintiff and each index person;*

(e) *The occupation and name of the employer of the exposed person at the time of each alleged exposure;*

(f) *The specific condition related to asbestos or silica claimed to exist; and*

(g) *Any supporting documentation of the condition claimed to exist.*

Section 6. Statute of limitations; two-disease rule.—

(1) *Notwithstanding any other law, with respect to any asbestos or silica claim not barred as of the effective date of this act, the limitations period does not begin to run until the exposed person discovers, or*

through the exercise of reasonable diligence should have discovered, that he or she is physically impaired by an asbestos-related or silica-related condition.

(2) An asbestos or silica claim arising out of a nonmalignant condition shall be a distinct cause of action from an asbestos or silica claim relating to the same exposed person arising out of asbestos-related or silica-related cancer. Damages may not be awarded for fear or risk of cancer in a civil action asserting an asbestos or silica claim.

(3) A settlement of a nonmalignant asbestos or silica claim concluded after the effective date of this act may not require, as a condition of settlement, the release of any future claim for asbestos-related or silica-related cancer.

Section 7. *Scope of liability; damages.—*

(1) Punitive damages may not be awarded in any civil action alleging an asbestos or silica claim.

(2) At the time a complaint is filed in a civil action alleging an asbestos or silica claim, the plaintiff must file a verified written report with the court which discloses the total amount of any collateral source payments received, including payments that the plaintiff will receive in the future, as a result of settlements or judgments based upon the same claim. For any asbestos or silica claim pending on the effective date of this act, the plaintiff shall file a verified written report within 60 days after the effective date of this act, or at least 30 days before trial. Further, the plaintiff must update the reports on a regular basis during the course of the proceeding until a final judgment is entered in the case. The court shall permit setoff, based on the collateral source payment information provided, in accordance with the laws of this state as of the effective date of this act.

Section 8. *Liability rules applicable to protect sellers, renters, and lessors.—*

(1)(a) In a civil action alleging an asbestos or silica claim, a product seller other than a manufacturer is liable to a plaintiff only if the plaintiff establishes that:

1.a. The product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

b. The product seller failed to exercise reasonable care with respect to the product; and

c. The failure to exercise reasonable care was a proximate cause of the harm to the exposed person;

2.a. The product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by the manufacturer as to the same product;

b. The product failed to conform to the warranty; and

c. The failure of the product to conform to the warranty caused the harm to the exposed person; or

3.a. The product seller engaged in intentional wrongdoing, as determined under the law of this state; and

b. The intentional wrongdoing caused the harm that is the subject of the complaint.

(b) For the purpose of sub-subparagraph 1.b., a product seller may not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product, if:

1. The failure occurred because there was no reasonable opportunity to inspect the product; or

2. The inspection, in the exercise of reasonable care, would not have revealed the aspect of the product which allegedly caused the exposed person's impairment.

(2) In a civil action alleging an asbestos or silica claim, a person engaged in the business of renting or leasing a product is not liable for the tortious act of another solely by reason of ownership of that product.

Section 9. *Miscellaneous provisions.—*

(1) This act does not affect the scope or operation of any workers' compensation law or veterans' benefit program, affect the exclusive remedy or subrogation provisions of the law, or authorize any lawsuit which is barred by law.

(2) Nothing in this act is intended to, and nothing in this act shall be interpreted to:

(a) Affect the rights of any party in bankruptcy proceedings; or

(b) Affect the ability of any person who is able to make a showing that the person satisfies the claim criteria for compensable claims or demands under a trust established under a plan of reorganization under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. Chapter 11, to make a claim or demand against that trust.

(3) It is the intent of the Legislature that this law render the utmost comity and respect to the constitutional prerogatives of the judiciary of this state, and nothing in this act should be construed as any effort to impinge upon those prerogatives. To that end, if the Florida Supreme Court enters a final judgment concluding or declaring that any provision of this act improperly encroaches on the authority of the court to adopt the rules of practice and procedure in the courts of this state, the Legislature intends that any such provision be construed as a request for a rule change under Section 2, Article V, of the State Constitution and not as a mandatory legislative directive.

(4) This act may not be interpreted to prevent any person from bringing or maintaining an asbestos claim based on nonoccupational exposure where such person would be otherwise able to bring or maintain a claim under this act.

(5) If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 10. This act shall take effect July 1, 2005. Because the act expressly preserves the right of all injured persons to recover full compensatory damages for their loss, it does not impair vested rights. In addition, because it enhances the ability of the most seriously ill to receive a prompt recovery, it is remedial in nature. Therefore, the act shall apply to any civil action asserting an asbestos claim in which trial has not commenced as of the effective date of this act.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to asbestos and silica claims; providing a short title; providing purposes; providing definitions; requiring physical impairment as an essential element of a claim; providing criteria for prima facie evidence of physical impairment for claims and certain actions; providing exceptions; providing additional requirements for evidence relating to physical impairment; specifying absence of certain presumptions at trial; providing procedures for claims and certain actions; providing for venue; providing for preliminary proceedings; requiring asbestos and silica claims to include certain information; specifying certain limitation periods for certain claims; specifying distinct causes of action for certain conditions; limiting damages under certain circumstances; prohibiting a general release from liability; prohibiting award of punitive damages; providing for collateral source payments; specifying liability rules applicable to certain persons; providing for construction; providing severability; providing application to certain civil actions; providing an effective date.

WHEREAS, asbestos is a mineral that was widely used before the mid 1970's for insulation, fireproofing, and other purposes, and

WHEREAS, millions of American workers and others were exposed to asbestos, especially during and after World War II and before the advent of regulation by the Occupational Safety and Health Administration in the early 1970's, and

WHEREAS, long-term exposure to asbestos has been associated with various types of cancer, including mesothelioma and lung cancer, as well as such nonmalignant conditions as asbestosis, pleural plaques, and diffuse pleural thickening, and

WHEREAS, the diseases caused by asbestos often have long latency periods, and

WHEREAS, although the use of asbestos has dramatically declined since the 1970's and workplace exposures have been regulated since 1971 by the Occupational Safety and Health Administration, past exposures will continue to result in significant claims of death and disability as a result of such exposure, and

WHEREAS, exposure to asbestos has created a flood of litigation in state and federal courts that the United States Supreme Court in *Ortiz v. Fibreboard Corporation*, 119 S. Ct. 2295, 2302 (1999), has characterized as an "elephantine mass" of cases that "defies customary judicial administration," and

WHEREAS, asbestos personal injury litigation can be unfair and inefficient, imposing a severe burden on litigants and taxpayers alike, and

WHEREAS, the inefficiencies and societal costs of asbestos litigation have been well documented in reports such as the RAND Institutes study on Asbestos Litigation Costs and Compensation, the study of Joseph E. Stiglitz on The Impact of Asbestos Liabilities on Workers in Bankrupt Firms, Dr. Joseph Gitlin's report from Johns Hopkins Medical School on Comparison of B Readers' Interpretations of Chest Radiographs for Asbestos Related Changes, and the Report to the House of Delegates from the American Bar Association Commission on Asbestos Litigation, and

WHEREAS, the extraordinary volume of nonmalignant asbestos cases continues to strain state courts, and

WHEREAS, the vast majority of asbestos claims are filed by individuals who allege they have been exposed to asbestos and who may have some physical sign of exposure but who suffer no present asbestos-related impairment, and

WHEREAS, the cost of compensating exposed individuals who are not sick jeopardizes the ability of defendants to compensate people with cancer and other serious asbestos-related diseases, now and in the future, and

WHEREAS, the cost of compensating exposed individuals who are not sick threatens the savings, retirement benefits, and jobs of defendants' current and retired employees and adversely affects the communities in which these defendants operate, and

WHEREAS, the crush of asbestos litigation has been costly to employers, employees, litigants, and the court system, and

WHEREAS, in 1982, the Johns-Manville Corporation, the nation's largest single supplier of insulation products containing asbestos, declared bankruptcy due to the burden of the asbestos litigation, and

WHEREAS, since 1982, more than 70 other companies have declared bankruptcy due to the burden of asbestos litigation, and

WHEREAS, estimates show that between 60,000 and 128,000 American workers already have lost their jobs as a result of asbestos-related bankruptcies and that the total number of jobs that will be lost due to asbestos-related bankruptcies will eventually reach 432,000, and

WHEREAS, each worker who loses his or her job due to an asbestos-related bankruptcy loses between \$25,000 and \$50,000 in wages over his or her career and loses 25 percent or more of the value of his or her retirement plan, and

WHEREAS, asbestos litigation is estimated to have cost over \$54 billion, with well over half of this expense going to attorney's fees and other litigation costs, and

WHEREAS, the seriously ill too often find that the value of their recovery is substantially reduced due to defendant bankruptcies and the inefficiency of the litigation process, and

WHEREAS, silica is a naturally occurring mineral, and

WHEREAS, the Earth's crust is over 90 percent silica, and crystalline silica dust is the primary component of sand, quartz, and granite, and

WHEREAS, silica-related illness, including silicosis, can occur when tiny silica particles are inhaled, and

WHEREAS, silicosis was recognized as an occupational disease many years ago, and

WHEREAS, the American Foundrymen's Society has distributed literature for more than 100 years to its members warning of the dangers of silica exposure, and

WHEREAS, the number of new lawsuits alleging silica-related disease being filed each year began to rise precipitously in recent years, and

WHEREAS, silica claims, like asbestos claims, often arise when an individual is identified as having markings on his or her lungs that are possibly consistent with silica exposure but the individual has no functional or physical impairment from any silica-related disease, and

WHEREAS, the Legislature finds that an overpowering public necessity requires it to act to prevent a silica-based litigation crisis, and

WHEREAS, concerns about statutes of limitations may prompt claimants who have been exposed to asbestos or silica but who do not have any current injury to bring premature lawsuits in order to protect against losing their rights to future compensation should they become impaired, and

WHEREAS, consolidations, joinders, and similar procedures to which some courts have resorted in order to deal with the mass of asbestos and silica cases can undermine the appropriate functioning of the judicial process and further encourage the filing of thousands of cases by exposed individuals who are not sick and who may never become sick, and

WHEREAS, punitive damage awards unfairly divert the resources of defendants from compensating genuinely impaired claimants and, given the lengthy history of asbestos and silica litigation and the regulatory and other restrictions on the use of asbestos and silica-containing products in the workplace, the legal justification for such awards, punishment, and deterrence is either inapplicable or inappropriate, and

WHEREAS, the Legislature finds that there is an overpowering public necessity to defer the claims of exposed individuals who are not sick in order to preserve, now and for the future, defendants' ability to compensate people who develop cancer and other serious asbestos-related and silica-related injuries and to safeguard the jobs, benefits, and savings of workers in this state and the well-being of the economy of this state, NOW, THEREFORE,

MOTION

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

Senator Campbell moved the following amendment to **Amendment 1** which failed:

Amendment 1A (311122)—On page 16, between lines 6 and 7, insert:

3. *Board-certified in rheumatology stating a diagnosis of the exposed person with silica-related autoimmune disorders, including, but not limited to, scleroderma and rheumatoid arthritis.*

MOTION

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

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

Amendment 1B (233648)—On page 19, lines 14 and 18, delete "social security number,"

MOTION

On motion by Senator Webster, the rules were waived to allow the following amendments to be considered:

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

Amendment 1C (040188)—On page 5, lines 5-16, delete those lines and insert:

(a) *Is a board-certified pathologist licensed to practice and actively practices in this country who performed services requested or authorized by a physician who:*

1. *Has conducted a physical examination of the exposed person or, if the person is deceased, has reviewed all available records relating to the exposed person's medical condition;*

2. *Is actually treating or treated the exposed person, and has or had a doctor-patient relationship with the person; and*

3. *Is licensed to practice and actively practices in this country; or*

(b) *Is a board-certified oncologist, pulmonary specialist, or specialist in occupational and environmental medicine who:*

1. *Has conducted a physical examination of the exposed person or, if the person is deceased, has reviewed all available records relating to the exposed person's medical condition;*

2. *Is actually treating or treated the exposed person, and has or had a doctor-patient relationship with the person; and*

3. *Is licensed to practice and actively practices in this country.*

Amendment 1D (570456)—On page 15, line 24, delete "(5)" and insert: (7)

Amendment 1 as amended was adopted.

MOTION

On motion by Senator Pruitt, the rules were waived and time of recess was extended until completion of Bills on Third Reading, the Special Order Calendar, motions and announcements.

On motion by Senator Webster, by two-thirds vote **HB 1019** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Mr. President	Diaz de la Portilla	Posey
Alexander	Dockery	Pruitt
Aronberg	Fasano	Rich
Atwater	Garcia	Saunders
Baker	Haridopolos	Sebesta
Bennett	Jones	Siplin
Bullard	King	Villalobos
Carlton	Lawson	Webster
Clary	Lynn	Wilson
Constantine	Margolis	Wise
Crist	Peaden	

Nays—8

Argenziano	Geller	Miller
Campbell	Hill	Smith
Dawson	Klein	

SENATOR CARLTON PRESIDING

HB 395—A bill to be entitled An act relating to recreational licenses and permits; amending s. 372.57, F.S.; providing for a military gold sportsman's license; providing for an annual fee; providing authorizations allowed under license; providing eligibility requirements; amending ss. 372.5712, 372.5715, and 372.573, F.S.; providing for uses of specified pro rata portions of revenue generated from the military gold sportsman's license; amending s. 372.661, F.S.; exempting patrons of licensed hunting preserves from the license and permit requirements of the military gold sportsman's license while hunting on the licensed preserve property; providing an effective date.

—was read the third time by title.

MOTION

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

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

Amendment 1 (144848)(with title amendment)—Between lines 116 and 117, insert:

Section 6. Section 327.803, Florida Statutes, is amended to read:

327.803 Boating Advisory Council.—

(1) The Boating Advisory Council is created within the Fish and Wildlife Conservation Commission and shall be composed of 18 47 members. The members include:

(a) One representative from the Fish and Wildlife Conservation Commission, who shall serve as the chair of the council.

(b) One representative each from the Department of Environmental Protection, the United States Coast Guard Auxiliary, the United States Power Squadron, and the inland navigation districts.

(c) One representative of manatee protection interests, one representative of the marine industries, ~~one representative two representatives~~ of water-related environmental groups, ~~one representative of canoe or kayak enthusiasts~~, one representative of marine manufacturers, one representative of commercial vessel owners or operators, one representative of ~~marine special events sport boat racing~~, one representative actively involved and working full-time in the scuba diving industry who has experience in recreational boating, ~~one representative of either the commercial fishing industry or the commercial shellfishing industry~~, and two representatives of the boating public, each of whom shall be nominated by the executive director of the Fish and Wildlife Conservation Commission and appointed by the Governor to serve staggered ~~3-year 2-year~~ terms. ~~Members appointed by the Governor may serve no more than two full consecutive terms.~~

(d) One member of the House of Representatives, who shall be appointed by the Speaker of the House of Representatives.

(e) One member of the Senate, who shall be appointed by the President of the Senate.

(2) The council shall meet at the call of the chair, at the request of a majority of its membership, or at such times as may be prescribed by rule.

(3) The purpose of the council is to make recommendations to the Fish and Wildlife Conservation Commission and the Department of Community Affairs regarding issues affecting the boating community, including, but not limited to, issues related to:

(a) Boating and diving safety education.

(b) Boating-related facilities, including marinas and boat testing facilities.

(c) Boat usage.

(d) Boat access.

(e) Working waterfronts.

(4) Members of the council shall serve without compensation *but are entitled to reimbursement of expenses as provided in s. 112.061.*

(5) *A vacancy on the council shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members whose terms have expired may continue to serve until replaced or reappointed.*

(6) *Members of the council may be removed for cause.*

Section 7. Paragraphs (d) and (e) of subsection (2) of section 370.06, Florida Statutes, are amended to read:

370.06 Licenses.—

(2) SALTWATER PRODUCTS LICENSE.—

(d) A saltwater products license may be issued in the name of an individual or a valid commercial vessel ~~boat~~ registration number. *However, a firm or corporation may only receive a license issued to a valid commercial vessel registration number. A saltwater products license may not be transferred by the licenseholder to another individual, firm, or corporation. Such license is not transferable.* A decal shall be issued with each saltwater products license issued to a valid commercial vessel ~~boat~~ registration number. The saltwater products license decal shall be the same color as the vessel registration decal issued each year pursuant to s. 328.48(5) and shall indicate the period of time such license is valid. The saltwater products license decal shall be placed beside the vessel registration decal and, in the case of an undocumented vessel, shall be placed so that the vessel registration decal lies between the commercial vessel registration number and the saltwater products license decal. Any saltwater products license decal for a previous year shall be removed from a vessel operating on the waters of the state.

(e) *The annual fee for a saltwater products license is:*

1. *For a license issued in the name of an individual which authorizes only that individual to engage in commercial fishing activities from the shore or a vessel: a resident must pay \$50; a nonresident must pay \$200; or an alien must pay \$300.*

2. *For a license issued in the name of an individual which authorizes that named individual to engage in commercial fishing activities from the shore or a vessel and also authorizes each person who is fishing with the named individual aboard a vessel to engage in such activities: a resident must pay \$150; a nonresident must pay \$600; or an alien must pay \$900.*

3. *For a license issued to a valid commercial vessel registration number which authorizes each person aboard such registered vessel to engage in commercial fishing activities: a resident, or a resident firm or corporation, must pay \$100; a nonresident, or a nonresident firm or corporation, must pay \$400; or an alien, or an alien firm or corporation, must pay \$600. For purposes of this subparagraph, a resident firm or corporation means a firm or corporation formed under the laws of this state; a nonresident firm or corporation means a firm or corporation formed under the laws of any state other than Florida; and an alien firm or corporation means a firm or corporation organized under any laws other than laws of the United States, any United States territory or possession, or any state of the United States. A resident shall pay an annual license fee of \$50 for a saltwater products license issued in the name of an individual or \$100 for a saltwater products license issued to a valid boat registration number. A nonresident shall pay an annual license fee of \$200 for a saltwater products license issued in the name of an individual or \$400 for a saltwater products license issued to a valid boat registration number. An alien shall pay an annual license fee of \$300 for a saltwater products license issued in the name of an individual or \$600 for a saltwater products license issued to a valid boat registration number.*

Section 8. Paragraph (b) of subsection (1) of section 370.13, Florida Statutes, is amended to read:

370.13 Stone crab; regulation.—

(1) FEES AND EQUITABLE RENT.—

(b) Certificate fees.—

1. For each trap certificate issued by the commission under the requirements of the stone crab trap limitation program established by commission rule, there is an annual fee of \$.50 per certificate. Replacement tags for lost or damaged tags cost \$.50 each, except that tags lost in the event of a major natural disaster declared as an emergency disaster by the Governor shall be replaced for the cost of the tag as incurred by the commission.

2. *The fee for transferring trap certificates is \$1 per certificate transferred, except that the fee for eligible crew members is 50 cents per certificate transferred. Except for transfers to Eligible crew members shall be as determined according to criteria established by rule of the commission, the fee for transferring certificates is \$2 per certificate transferred to be paid by the purchaser of the certificate or certificates. The transfer*

fee for eligible crew members is \$1 per certificate. Payment must be made by money order or cashier's check, submitted with the certificate transfer form developed by the commission.

3. In addition to the transfer fee, a surcharge of \$1 \$2 per certificate transferred, or 25 percent of the actual value of the transferred certificate, whichever is greater, will be assessed the first time a certificate is transferred outside the original holder's immediate family.

4. Transfer fees and surcharges only apply to the actual number of certificates received by the purchaser. A transfer of a certificate is not effective until the commission receives a notarized copy of the bill of sale as proof of the actual value of the transferred certificate or certificates, which must also be submitted with the transfer form and payment.

5. A transfer fee will not be assessed or required when the transfer is within a family as a result of the death or disability of the certificate owner. A surcharge will not be assessed for any transfer within an individual's immediate family.

6. *The fees and surcharge amounts in this paragraph apply in the 2005-2006 license year and subsequent years.*

Section 9. *Section 372.674, Florida Statutes, is repealed.*

Section 10. Paragraph (d) of subsection (2) of section 372.672, Florida Statutes, is amended to read:

372.672 Florida Panther Research and Management Trust Fund.—

(2) Money from the fund shall be spent only for the following purposes:

~~(d) To fund and administer education programs authorized in s. 372.674.~~

(Redesignate subsequent sections.)

And the title is amended as follows:

On line 13, after the semicolon (;) insert: amending s. 327.803, F.S.; revising the membership of the Boating Advisory Council; increasing the terms of office of members appointed by the Governor and limiting the number of consecutive terms they may serve; adding issues upon which the council makes recommendations to the commission and the Department of Community Affairs; authorizing reimbursement of expenses for members of the council; providing for the filling of vacancies; providing for members of the council to be removed for cause; amending s. 370.06, F.S.; providing for receipt of a saltwater products license issued by the commission to a firm or corporation; revising a provision barring transfer of a saltwater products license; revising a provision regarding the annual fee that an individual, firm, or corporation must pay for a license; providing for an increase in annual saltwater products license fees; providing definitions; amending s. 370.13, F.S.; reducing stone crab trap certificate transfer fees; reducing surcharge fees; repealing s. 372.674, F.S., relating to environmental education and the Advisory Council on Environmental Education; amending s. 372.672, F.S., relating to the Florida Panther Research and Management Trust Fund, to conform;

On motion by Senator Atwater, **HB 395** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Crist	Klein
Argenziano	Dawson	Lawson
Aronberg	Diaz de la Portilla	Lynn
Atwater	Dockery	Margolis
Baker	Fasano	Miller
Bennett	Garcia	Peaden
Bullard	Geller	Posey
Campbell	Haridopolos	Pruitt
Carlton	Hill	Rich
Clary	Jones	Saunders
Constantine	King	Sebasta

Siplin	Villalobos	Wilson
Smith	Webster	Wise
Nays—None		

CS for CS for CS for CS for SB 442—A bill to be entitled An act relating to building safety; amending s. 215.559, F.S.; requiring that a specified percentage of the funds appropriated under the Hurricane Loss Mitigation Program be used for education concerning the Florida Building Code and for the operation of the disaster contractors network; requiring the Department of Community Affairs to contract with a non-profit tax-exempt entity for training, development, and coordination; providing that the Office of Insurance Regulation make recommendations to the insurance industry based on a report regarding the Hurricane Loss Mitigation Program by the Department of Community Affairs; amending s. 400.23, F.S.; providing that residents of nursing homes may move their beds under certain circumstances; requiring the nursing homes to notify the Agency for Health Care Administration; amending s. 468.621, F.S.; providing additional grounds for which disciplinary actions may be taken against building code enforcement officials; amending ss. 471.033 and 481.225, F.S.; providing criminal penalties for performing building inspections under certain circumstances; amending s. 489.537, F.S.; providing that certain alarm system contractors and electrical contractors may not be required by a municipality or county to obtain additional certification or meet additional licensure requirements; amending s. 553.73, F.S.; specifying certain codes from the International Code Congress and the International Code Council as foundation codes for the updated Florida Building Code; providing requirements for amendments to the foundation codes; providing for the incorporation of certain statements, decisions, and amendments into the Florida Building Code; providing a timeframe for rule updates to the Florida Building Code to become effective; adding a requirement for technical amendments to the Florida Building Code; providing requirements for the Florida Building Commission in reviewing code amendments; providing an exception; incorporating by reference certain standards for unvented conditioned attic assemblies; amending s. 553.77, F.S.; revising duties of the Florida Building Commission; authorizing local building departments or other entities to approve changes to an approved building plan; providing that a member shall abstain from voting under certain circumstances; deleting requirements that the commission hear certain appeals and issue declaratory statements; creating s. 553.775, F.S.; providing legislative intent with respect to the interpretation of the Florida Building Code; providing for the commission to resolve disputes regarding interpretations of the code; requiring the commission to review decisions of local building officials and local enforcement agencies; providing for publication of an interpretation on the Building Code Information System and in the Florida Administrative Weekly; authorizing the commission to adopt a fee; amending s. 553.79, F.S.; exempting truss-placement plans from certain requirements; amending s. 553.791, F.S.; clarifying a definition; expanding authorization to use private providers to provide building code inspection services; including fee owner contractors within such authorization; revising notice requirements for using private providers; revising procedures for issuing permits; providing requirements for representatives of private providers; providing for waiver of certain inspection records requirements under certain circumstances; requiring issuance of stop-work orders to be pursuant to law; providing for establishment of a registration system for private providers and authorized representatives of private providers for licensure compliance purposes; preserving authority to issue emergency stop-work orders; revising insurance requirements for private providers; providing a definition; authorizing performance audits by local building code enforcement agencies of private providers; specifying conditions for proceeding with building work; amending s. 553.80, F.S.; providing that certain buildings are exempt from the building code; providing that universities and colleges may create a board of adjustment; authorizing local governments to impose certain fees for code enforcement; providing requirements and limitations; conforming a cross-reference; requiring the commission to expedite adoption and implementation of the existing state building code as part of the Florida Building Code pursuant to limited procedures; exempting certain buildings of the Department of Agriculture and Consumer Services from local permitting requirements, review, or fees; amending s. 120.80, F.S.; authorizing the Florida Building Commission to conduct proceedings to review decisions of local officials; amending s. 553.841, F.S.; revising provisions governing the Building Code Training Program; creating the Building Code Education and Outreach Council to coordinate, develop, and ensure enforcement of the Florida Building Code; providing for membership, terms of office, and

meetings; providing duties of the council; providing for administrative support for the council; requiring the council to develop a core curriculum and equivalency test for specified licensees; providing for the use of funds by the council; repealing s. 553.8413, F.S., relating to the Education Technical Advisory Committee; amending s. 553.842, F.S.; providing for products to be approved for statewide use; deleting an obsolete date; deleting a provision requiring the commission to adopt certain criteria for local program verification and validation by rule; adding an evaluation entity to the list of entities specifically approved by the commission; deleting a requirement that the commission establish a schedule for adopting rules relating to product approvals under certain circumstances; authorizing the commission to adopt rules relating to material standards; amending s. 633.025, F.S.; providing that local governments may adopt fire sprinkler requirements under certain circumstances; creating s. 633.026, F.S.; requiring that the State Fire Marshal establish by rule a process for rendering nonbinding interpretations of the Florida Fire Prevention Code; authorizing the State Fire Marshal to enter into contracts and refer interpretations to a nonprofit organization; providing for the interpretations to be advisory; providing for establishing a fee by department rule; providing requirements for local product approval of products or systems of construction; specifying methods for demonstrating compliance with the structural windload requirements of the Florida Building Code; providing for certification to be issued by a professional engineer or registered architect; providing for audits under a quality assurance program and other types of certification; providing that changes to the Florida Building Code do not void the approval of previously installed products; providing for guidelines for the mitigation grant program; amending s. 633.021, F.S.; redefining terms used in ch. 633, F.S.; amending s. 633.0215, F.S.; revising provisions relating to the construction of townhouse stairs; amending s. 633.071, F.S.; requiring inspection tags to be attached to all fire protection systems; providing for the standardization of inspection tags and reports; amending s. 633.082, F.S.; requiring fire protection systems to be inspected in accordance with nationally accepted standards; amending s. 633.521, F.S.; establishing a permit classification for individuals who inspect fire protection systems; amending s. 633.524, F.S.; establishing fees for various classes of permits; amending s. 633.537, F.S.; establishing continuing education requirements; amending s. 633.539, F.S.; requiring fire protection systems to be inspected, serviced, or maintained by a permit holder; establishing the scope of work criteria; amending s. 633.547, F.S.; providing for disciplinary action; amending s. 633.702, F.S.; providing a criminal penalty for intentionally or willfully installing, servicing, testing, repairing, improving, or inspecting a fire alarm system unless the person who performs those acts has certain qualifications or is exempt under s. 489.503, F.S.; providing for the Florida Building Commission to adopt amendments to the Florida Building Code relating to water intrusion and roof-covering attachment; amending ch. 2000-141, Laws of Florida; providing for removal of outdated wind-protection standards from the Florida Building Code; providing for an update of the code's wind-protection standards; providing an appropriation; providing for incorporation in the Florida Building Code of the repeal of a design option relating to internal pressure for buildings within the windborne debris region; requiring the Florida Building Commission to make recommendations to the Legislature; providing an effective date for the Florida Building Code; granting certain design professionals the choice of having certain projects governed under the 2004 edition of the code; repealing s. 553.851, F.S., relating to the protection of underground gas pipelines; amending s. 489.103, F.S.; exempting a disaster recovery organization or a not-for-profit organization assisting with post-disaster repair or replacement of certain residential structures from part I of ch. 489, F.S., relating to regulation of contractors, under certain circumstances; providing that certain storage buildings whose sale, delivery, assembly, or tie-down are exempt from such part; requiring the Florida Building Commission to amend certain provisions of the Florida Building Code relating to mezzanine size and use; requiring the Florida Building Commission to convene a workgroup to study the recommendation for a single validation entity; requiring the Florida Building Commission to amend certain provisions of the Florida Building Code relating to fire safety in certain occupancies or exit doors of certain occupancies; creating the Manufactured Housing Regulatory Study Commission; providing for membership; providing duties; requiring the commission to file a report with the Governor and the Legislature; amending s. 514.075, F.S.; deleting an exemption from service requirements for certain public pool operators; requiring the adoption of rules; requiring a public pool to be serviced by a certified pool service technician; removing specified provisions from the Florida Building Code; restoring specified provisions that had been removed from the

base code; providing for continuation of the restored provisions until the base code is revised; providing effective dates.

—as amended May 2 was read the third time by title.

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

Amendment 1 (801874)—On page 77, line 20, delete “*root*” and insert: *roof*

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

Amendment 2 (553656)(with title amendment)—On page 85, lines 11-28, delete those lines.

And the title is amended as follows:

On page 8, lines 16-18, delete those lines and insert: and the Legislature; requiring

MOTION

On motion by Senator Bennett, the rules were waived to allow the following amendments to be considered:

Senator Bennett moved the following amendments which were adopted by two-thirds vote:

Amendment 3 (285714)—On page 64, lines 27-29, delete those lines and insert: *The maintenance of fire protection systems as well as corrective actions on deficient systems is the responsibility of the owner of the system or hydrant. This section does not prohibit*

Amendment 4 (052102)(with title amendment)—On page 85, line 29 through page 86, line 7, delete those lines and insert:

Section 49. *The Florida Building Commission shall review Modifications 569 and 570 adopted by the commission on October 14, 2003, and take public comment regarding those provisions. The commission shall receive public comment regarding the cost related to compliance with amendments, the capability of industry to supply products necessary for compliance and the benefit of the modifications to the health, safety, and welfare of the citizens of this state. Notwithstanding section 553.73, Florida Statutes, the commission may repeal or modify the modifications in response to the public comments subject only to the rule adoption procedures of chapter 120, Florida Statutes. Modifications 569 and 570 may not take effect until the commission has completed the review required or rulemaking initiated in response to such review, whichever is later, and sections 2304.7(3) and (5) of the International Building Code (2003), shall govern construction in this state until that time.*

And the title is amended as follows:

On page 8, lines 21-26, delete those lines and insert: technician; requiring the Florida Building Commission to review certain provisions of the Florida Building Code; providing for public comments; providing for rulemaking authority; providing effective dates.

On motion by Senator Bennett, **CS for CS for CS for CS for SB 442** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Alexander	Crist	Klein
Argenziano	Dawson	Lawson
Aronberg	Diaz de la Portilla	Lynn
Atwater	Dockery	Margolis
Baker	Fasano	Miller
Bennett	Garcia	Peaden
Bullard	Geller	Posey
Campbell	Haridopolos	Pruitt
Carlton	Hill	Rich
Clary	Jones	Saunders
Constantine	King	Sebesta

Siplin
Smith

Villalobos
Webster

Wilson
Wise

Nays—None

HB 1589—A bill to be entitled An act relating to elections; amending s. 97.012, F.S.; revising the duties of the Secretary of State and the Department of State relating to election laws; providing for rulemaking; authorizing the Secretary of State to delegate voter registration and records maintenance duties to voter registration officials; providing that the secretary has a duty to bring legal action to enforce the performance of county supervisors of elections or other officials performing duties relating to the Florida Election Code; providing a prerequisite to bringing such an action; providing venue; requiring that courts give priority to such an action; providing penalties; providing for the adoption of rules; amending s. 97.021, F.S.; revising and providing definitions; amending s. 97.026, F.S.; providing rulemaking authority to make forms available in alternative formats and via the Internet; removing a cross reference; amending s. 97.051, F.S.; revising the oath taken by a person registering to vote; amending s. 97.052, F.S.; requiring that the uniform statewide voter registration application be accepted for replacement of a voter information card and signature update; revising the information the uniform statewide voter registration application must contain and must elicit from the applicant; providing for the failure of a voter registration applicant to answer questions on the voter registration application; amending s. 97.053, F.S.; revising the criteria for completeness of a voter registration application; specifying the possible valid recipients of a mailed voter registration application; revising the information needed on a voter registration application to establish an applicant's eligibility; providing for verification of authenticity of certain voter registration application information; providing for a provisional ballot to be provided to an applicant if the application is not verified by a certain date; requiring a voter registration official to enter all voter registration applications into the voter registration system within a certain time period and forward such applications to the supervisor of elections; amending s. 97.0535, F.S.; providing for applicants who have no valid Florida driver's license, identification card, or social security number; amending s. 97.055, F.S.; specifying the information updates permitted for purposes of an upcoming election once registration books are closed; amending s. 97.057, F.S.; revising the voter registration procedure by the Department of Highway Safety and Motor Vehicles; amending s. 97.058, F.S.; revising duties of voter registration agencies; amending s. 97.061, F.S.; revising special registration procedures for electors requiring assistance; amending s. 97.071, F.S.; redesignating the registration identification card as the voter information card; revising requirements for the contents of the card; amending s. 97.073, F.S.; revising the procedure by which an applicant must supply missing information on the voter registration application; revising provisions relating to cancellation of previous registration; amending s. 97.1031, F.S.; revising provisions relating to notice of change of residence, name, or party affiliation; amending s. 97.105, F.S., relating to establishment of the permanent single registration system, to conform; amending s. 98.015, F.S.; revising the duties of supervisors of elections; creating s. 98.035, F.S.; establishing a statewide voter registration system; requiring the Secretary of State to be responsible for the implementation, operation, and maintenance of the system; prohibiting the department from contracting with any other entity to operate the system; authorizing the department to adopt rules relating to the access, use, and operation of the system; amending s. 98.045, F.S.; revising provisions relating to administration of voter registration; providing for the responsibility of such administration to be undertaken by the department in lieu of supervisors of elections; specifying ineligibility criteria; revising provisions relating to removal of registered voters; revising provisions relating to public records access and retention; providing for the establishment of a statewide electronic database of valid residential street addresses; authorizing the department to adopt rules relating to certain voter registration system forms; amending s. 98.065, F.S.; revising provisions relating to registration records maintenance; providing for change of address; providing limitations on notice and renewal; requiring supervisors of elections to certify to the department certain list maintenance activities; providing penalties; amending s. 98.075, F.S.; providing for registration records maintenance by the department; providing procedures in cases involving duplicate registration, deceased persons, adjudication of mental incapacity, felony conviction, and other bases for ineligibility; providing procedures for removal; requiring supervisors of elections to certify to the department certain registration records maintenance activities; creating s. 98.0755, F.S.; providing for appeal of a determination of ineligibil-

ity; providing for jurisdiction, burden of proof, and trial costs; amending s. 98.077, F.S.; revising provisions relating to updating a voter's signature; amending s. 98.081, F.S., relating to removal of names from the statewide voter registration system, to conform; amending s. 98.093, F.S.; revising the duty of officials to furnish lists of deceased persons, persons adjudicated mentally incapacitated, and persons convicted of a felony; creating s. 98.0981, F.S.; requiring the department to establish and maintain a statewide voter registration database and provide such database to the Legislature; specifying the required contents of the database; amending s. 98.212, F.S., relating to furnishing of statistical and other information, to conform; amending s. 98.461, F.S.; authorizing use of an electronic database as a precinct register and use of an electronic device for voter signatures and witness initials; amending s. 100.371, F.S.; revising the procedure by which constitutional amendments proposed by initiative shall be placed on the ballot; amending s. 101.001, F.S.; revising requirements of supervisors relating to precincts and precinct boundaries; providing exceptions; amending s. 101.043, F.S.; revising requirements and procedures relating to identification required at polls; amending s. 101.045, F.S., relating to provisions for residence or name change at the polls, to conform; amending s. 101.048, F.S., relating to provisional ballots, to conform; amending s. 101.161, F.S.; correcting a cross reference; amending s. 101.56062, F.S., relating to standards for accessible voting systems, to conform; amending s. 101.5608, F.S.; revising a provision relating to an elector's signature provided with identification prior to voting; creating s. 101.573, F.S.; requiring supervisors of elections to file precinct-level election results; requiring the Department of State to adopt rules; amending s. 101.62, F.S.; correcting a cross reference; amending ss. 101.64 and 101.657, F.S.; requiring that the supervisor of elections indicate on each absentee or early voted ballot the precinct of the voter; amending s. 101.663, F.S., relating to change of residence, to conform; amending s. 101.6921, F.S., relating to delivery of special absentee ballots to certain first-time voters, to conform; amending s. 101.6923, F.S., relating to special absentee ballot instructions for certain first-time voters, to conform; amending s. 102.012, F.S., relating to conduct of elections by inspectors and clerks, to conform; amending s. 104.013, F.S., relating to unauthorized use, possession, or destruction of voter information cards, to conform; amending s. 106.0705, F.S.; providing for the timely filing of certain reports; amending s. 106.34, F.S.; revising provisions relating to certain candidate expenditure limits; providing a definition; amending s. 196.141, F.S., relating to homestead exemptions and duties of property appraisers, to conform; amending s. 120.54, F.S.; including certain rules pertaining to the Florida Election Code within the definition of emergency rules governing public health, safety, or welfare during specified times; amending s. 99.061, F.S.; revising provisions relating to the method of qualifying for nomination to the office of the state attorney or public defender; repealing s. 98.055, F.S., relating to registration list maintenance forms; repealing s. 98.095, F.S., relating to county registers open to inspection and copies; repealing s. 98.0977, F.S., relating to the statewide voter registration database and its operation and maintenance; repealing s. 98.0979, F.S., relating to inspection of the statewide voter registration; repealing s. 98.101, F.S., relating to specifications for permanent registration binders, files, and forms; repealing s. 98.181, F.S., relating to duty of the supervisor of elections to make up indexes or records; repealing s. 98.231, F.S., relating to duty of the supervisor of elections to furnish the department the number of registered electors; repealing s. 98.451, F.S., relating to automation in processing registration data; repealing s. 98.481, F.S., relating to challenges to electors; repealing s. 101.635, F.S., relating to distribution of blocks of printed ballots; providing effective dates.

—as amended May 3 was read the third time by title.

On motion by Senator Posey, **HB 1589** as amended was passed and certified to the House. The vote on passage was:

Yeas—33

Alexander	Crist	Jones
Argenziano	Dawson	King
Atwater	Diaz de la Portilla	Lawson
Baker	Dockery	Lynn
Bennett	Fasano	Miller
Bullard	Garcia	Peaden
Carlton	Geller	Posey
Clary	Haridopolos	Pruitt
Constantine	Hill	Saunders

Sebesta	Villalobos	Wilson
Siplin	Webster	Wise

Nays—5

Aronberg	Klein	Rich
Campbell	Margolis	

Vote after roll call:

Nay—Smith

Yea to Nay—Dawson, Miller

DISCLOSURE

This is to advise you that I have just voted on HB 1589, a bill related to elections and to public financing of political campaigns.

I am a candidate for Attorney General of this state. I will be one of a small group of candidates who will benefit from the increases provided in the above bill.

By Senate Rule, I am obliged to vote on this bill, and in an abundance of caution, I am disclosing the above circumstances in the Senate Journal, as required by Senate Rule 1.39.

Burt Saunders, 37th District

DISCLOSURE

This is to advise you that I have just voted on HB 1589, a bill related to elections and to public financing of political campaigns.

I am a candidate for Governor of this state. I will be one of a small group of candidates who will benefit from the increases provided in the above bill.

By Senate Rule, I am obliged to vote on this bill, and in an abundance of caution, I am disclosing the above circumstances in the Senate Journal, as required by Senate Rule 1.39.

Rod Smith, 14th District

HB 1591—A bill to be entitled An act relating to public records; amending s. 97.0585, F.S.; revising an exemption from the public-records law which is provided for information concerning persons who decline to register to vote, information relating to the place where a person registered to vote or updated a registration, and a voter's signature and social security number; creating exemptions from disclosure for a voter's driver's license number and Florida identification number; deleting an exemption from disclosure provided for the voter's telephone number; providing certain exceptions; providing for future legislative review and repeal under the Open Government Sunset Review Act; providing a finding of public necessity; providing a contingent effective date.

—as amended May 3 was read the third time by title.

On motion by Senator Posey, **HB 1591** as amended was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—39

Alexander	Crist	Klein
Argenziano	Dawson	Lawson
Aronberg	Diaz de la Portilla	Lynn
Atwater	Dockery	Margolis
Baker	Fasano	Miller
Bennett	Garcia	Peaden
Bullard	Geller	Posey
Campbell	Haridopolos	Pruitt
Carlton	Hill	Rich
Clary	Jones	Saunders
Constantine	King	Sebesta

Siplin
Smith
Nays—None

Villalobos
Webster

Wilson
Wise

King
Klein
Lawson
Lynn
Margolis
Miller

Peaden
Posey
Pruitt
Rich
Saunders
Sebesta

Siplin
Smith
Villalobos
Webster
Wise

Nays—None

HB 473—A bill to be entitled An act relating to water management district security; creating s. 373.6055, F.S.; requiring water management districts with structures or facilities identified as critical infrastructure to conduct criminal history checks of certain persons; authorizing water management districts with structures or facilities that are not identified as critical infrastructure to conduct criminal history checks of certain persons; providing requirements for criminal history checks; requiring submission of fingerprints to the Department of Law Enforcement and the Federal Bureau of Investigation; providing for payment of criminal history check costs; requiring the water management district security's plan to identify criminal history convictions or factors that disqualify applicants for employment and restricted area access; authorizing the use of such factors to disqualify certain employees and other persons; authorizing water management districts to establish appeal procedures; authorizing water management districts to grant temporary waivers; providing offenses that disqualify a person from employment or access to a restricted access area; providing an exception to disqualification; providing an effective date.

—was read the third time by title.

On motion by Senator Atwater, **HB 473** was passed and certified to the House. The vote on passage was:

Yeas—36

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Baker	Geller	Rich
Bennett	Haridopolos	Saunders
Bullard	Jones	Sebesta
Campbell	King	Siplin
Carlton	Klein	Smith
Clary	Lawson	Villalobos
Constantine	Lynn	Webster
Crist	Margolis	Wise

Nays—3

Dawson	Hill	Wilson
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HB 501—A bill to be entitled An act relating to insurance field representatives and operations; amending s. 626.321, F.S.; including service warranty agreement sales covering communications equipment under certain limited licensing provisions; providing for additional appointment authority for certain licensed branch locations of a communications equipment retail vendor; revising certain application, appointment, and licensing requirements for certain entities; providing for payment of appointment fees; providing an exception; requiring renewals of appointments; providing for a renewal fee; amending s. 626.731, F.S.; revising a qualification for licensure as a general lines agent; amending s. 627.7295, F.S.; deleting a requirement for inclusion of an agent fee in a rate filing; providing an effective date.

—was read the third time by title.

On motion by Senator Posey, **HB 501** was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Campbell	Dockery
Argenziano	Carlton	Fasano
Aronberg	Clary	Garcia
Atwater	Constantine	Geller
Baker	Crist	Haridopolos
Bennett	Dawson	Hill
Bullard	Diaz de la Portilla	Jones

Consideration of **CS for CS for SB 838** was deferred.

HB 1041—A bill to be entitled An act relating to women's health care; providing a popular name; amending s. 390.012, F.S.; revising requirements for rules of the Agency for Health Care Administration relating to abortion clinics performing abortions after the first trimester of pregnancy; requiring rules that prescribe standards for physical facilities, supplies and equipment, personnel, screening and evaluation, the abortion procedure, recovery, follow-up care, and incident reporting; providing that rules regulating abortion clinics may not impose an unconstitutional burden rather than a legally significant burden on a woman's right to choose to terminate her pregnancy; providing for severability; providing an effective date.

—was read the third time by title.

Senators Dockery, Smith, Lynn and King offered the following amendment which was moved by Senator Dockery and adopted by two-thirds vote:

Amendment 1 (751098)—Lines 119-121, delete those lines and insert: *licensed to practice medicine in this state and who has admitting privileges at a licensed hospital in this state or has a transfer agreement with a licensed hospital within reasonable proximity of the clinic.*

On motion by Senator Dockery, **HB 1041** as amended was passed and certified to the House. The vote on passage was:

Yeas—30

Alexander	Crist	Peaden
Argenziano	Diaz de la Portilla	Posey
Atwater	Dockery	Pruitt
Baker	Fasano	Saunders
Bennett	Garcia	Sebesta
Bullard	Haridopolos	Siplin
Campbell	Jones	Smith
Carlton	King	Villalobos
Clary	Lawson	Webster
Constantine	Lynn	Wise

Nays—9

Aronberg	Hill	Miller
Dawson	Klein	Rich
Geller	Margolis	Wilson

HB 691—A bill to be entitled An act relating to military personnel on duty; creating the Citizen Soldier Matching Grant Program within the Agency for Workforce Innovation; providing for matching grants to be awarded to private sector employers that provide wages to employees serving in the United States Armed Forces Reserves or the Florida National Guard while those employees are on federal active duty; providing eligibility requirements for grant recipients; directing the Agency for Workforce Innovation to develop a plan to administer the application and payment procedures for the matching grants; providing for the award of matching grants after approval of the plan; providing an appropriation; providing that professional licenses issued to any member of the Florida National Guard or the United States Armed Forces Reserves shall not expire while the member is serving on federal active duty; providing a 90-day extension period for such licenses after return from federal active duty; providing requirements with respect to such extension; providing an effective date.

—was read the third time by title.

On motion by Senator Geller, **HB 691** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Baker	Geller	Rich
Bennett	Haridopolos	Saunders
Bullard	Hill	Sebesta
Campbell	Jones	Siplin
Carlton	King	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

HB 747—A bill to be entitled An act relating to the Citizen Soldier Matching Grant Trust Fund; creating the Citizen Soldier Matching Grant Trust Fund within the Agency for Workforce Innovation; requiring that moneys in the trust fund be used to award matching grants to private sector employers who provide wages to employees serving in the United States Armed Forces Reserves or the Florida National Guard while such employees are on federal active duty; providing for future review and termination or re-creation of the trust fund; providing a contingent effective date.

—was read the third time by title.

On motion by Senator Geller, **HB 747** was passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Baker	Geller	Rich
Bennett	Haridopolos	Saunders
Bullard	Hill	Sebesta
Campbell	Jones	Siplin
Carlton	King	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

HB 805—A bill to be entitled An act relating to an exemption from the tax on sales, use, and other transactions for solar energy systems; amending s. 212.08, F.S.; deleting a scheduled repeal of such exemption; providing an effective date.

—was read the third time by title.

On motion by Senator Atwater, **HB 805** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Campbell	Dockery
Argenziano	Carlton	Fasano
Aronberg	Clary	Garcia
Atwater	Constantine	Geller
Baker	Crist	Haridopolos
Bennett	Dawson	Hill
Bullard	Diaz de la Portilla	Jones

King	Peaden	Siplin
Klein	Posey	Smith
Lawson	Pruitt	Villalobos
Lynn	Rich	Webster
Margolis	Saunders	Wilson
Miller	Sebesta	Wise

Nays—None

Consideration of **HB 871** was deferred.

HB 955—A bill to be entitled An act relating to waterfront property; amending s. 163.3177, F.S.; requiring the future land use plan element of a local comprehensive plan for a coastal county to include criteria to encourage the preservation of recreational and commercial working waterfronts; including public access to waterways within those items indicated in a recreation and open space element; amending s. 163.3178, F.S.; providing requirements for the shoreline use component of a coastal management element with respect to recreational and commercial working waterfronts; amending s. 163.3187, F.S.; including areas designated as rural areas of critical economic concern in an exemption for certain small scale amendments from a limit on the frequency of amendments to the comprehensive plan of a county or a municipality; increasing various acreage limitations governing eligibility for such exemption for a small scale amendment within such an area; requiring certification of the amendment to the Office of Tourism, Trade, and Economic Development; requiring public review of certain property; amending s. 163.3246, F.S.; revising provisions for the local government comprehensive planning certification program; providing for certain municipalities to be considered certified; requiring the state land planning agency to provide a written notice of certification; specifying components of such notice; requiring local governments to submit monitoring reports to the state land planning agency; providing exemptions from certain development-of-regional-impact reviews; amending s. 253.002, F.S.; removing an obsolete reference; revising the responsibilities of the Department of Agriculture and Consumer Services for aquaculture activities; amending s. 253.03, F.S.; requiring the Board of Trustees of the Internal Improvement Trust Fund to encourage certain uses for sovereign submerged lands; amending s. 253.67, F.S.; clarifying the definition of “aquaculture”; amending s. 253.68, F.S.; providing authority to the board for certain aquaculture activities; providing a definition; requiring the board to establish certain guidelines by rule; amending s. 253.74, F.S.; providing penalties for certain unauthorized aquaculture activities; amending s. 253.75, F.S.; revising the responsibilities of the board with regard to certain aquaculture activities; establishing the Waterfronts Florida Program within the Department of Community Affairs; providing definitions; requiring that the program implement the Waterfronts Florida Partnership Program in coordination with the Department of Environmental Protection; authorizing the Department of Community Affairs to provide financial assistance to certain local governments; requiring the Department of Environmental Protection and water management districts to adopt programs to expedite the processing of permits for certain projects; requiring the Department of Environmental Protection, in coordination with the Fish and Wildlife Conservation Commission, to study the use of state parks for recreational boating; requiring that the department make recommendations to the Governor and the Legislature; amending s. 328.72, F.S.; revising the distribution of vessel registration fees; providing for a portion of the fees to be designated for certain trust funds; providing for a grant program for public launching facilities; providing priority consideration for certain counties; requiring certain counties to provide an annual report to the Fish and Wildlife Conservation Commission; requiring the commission to provide exemptions for certain counties; creating s. 342.07, F.S.; enunciating the state’s interest in maintaining recreational and commercial working waterfronts; defining the term “recreational and commercial working waterfront”; creating ss. 197.303-197.3047, F.S.; authorizing county commissions to adopt tax deferral ordinances for recreational and commercial working waterfront properties; requiring bonding periods effective prior the deferral to remain in effect for certain properties; providing requirements for deferral notification and application for certain properties; providing a tax deferral for ad valorem taxes and non-ad valorem assessments authorized to be deferred by ordinance and levied on recreational and commercial working waterfronts; providing certain exceptions; specifying the rate of the deferral; providing that the taxes,

assessments, and interest deferred constitute a prior lien on the property; providing an application process; providing notice requirements; providing for a decision of the tax collector to be appealed to the value adjustment board; providing for calculating the deferral; providing requirements for deferred payment tax certificates; providing for the deferral to cease under certain circumstances; requiring notice to the tax collector; requiring payment of deferred taxes, assessments, and interest under certain circumstances; authorizing specified parties to make a prepayment of deferred taxes; providing for distribution of payments; providing for construction of provisions authorizing the deferments; providing penalties; providing for a penalty to be appealed to the value adjustment board; providing an effective date.

—as amended May 3 was read the third time by title.

MOTION

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

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

Amendment 3 (514354)(with title amendment)—Between lines 926 and 927, insert:

Section 17. Subsections (10), (11), and (12) of section 163.3246, Florida Statutes, are renumbered as subsections (12), (13), and (14), respectively, and new subsections (10) and (11) are added to said section to read:

163.3246 Local government comprehensive planning certification program.—

(10) Notwithstanding subsections (2), (4), (5), (6), and (7), any municipality designated as a rural area of critical economic concern pursuant to s. 288.0656 which is located within a county eligible to levy the Small County Surtax under s. 212.055(3) shall be considered certified during the effectiveness of the designation of rural area of critical economic concern. The state land planning agency shall provide a written notice of certification to the local government of the certified area, which shall be considered final agency action subject to challenge under s. 120.569. The notice of certification shall include the following components:

- (a) The boundary of the certification area.
(b) A requirement that the local government submit either an annual or biennial monitoring report to the state land planning agency according to the schedule provided in the written notice. The monitoring report shall, at a minimum, include the number of amendments to the comprehensive plan adopted by the local government, the number of plan amendments challenged by an affected person, and the disposition of those challenges.

(11) If the local government of an area described in subsection (10) does not request that the state land planning agency review the developments of regional impact that are proposed within the certified area, an application for approval of a development order within the certified area shall be exempt from review under s. 380.06, subject to the following:

- (a) Concurrent with filing an application for development approval with the local government, a developer proposing a project that would have been subject to review pursuant to s. 380.06 shall notify in writing the regional planning council with jurisdiction.
(b) The regional planning council shall coordinate with the developer and the local government to ensure that all concurrency requirements as well as federal, state, and local environmental permit requirements are met.

(Redesignate subsequent sections.)

And the title is amended as follows:

On line 96, after the semicolon (;) insert: amending s. 163.3246, F.S.; revising provisions for the local government comprehensive planning certification program; providing for certain municipalities to be considered certified; requiring the state land planning agency to provide a written notice of certification; specifying components of such notice; requiring local governments to submit monitoring reports to the state land

planning agency; providing exemptions from certain development-of-regional-impact reviews;

On motion by Senator Bennett, HB 955 as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Table with 3 columns: Alexander, Argenziano, Aronberg, Atwater, Baker, Bennett, Bullard, Campbell, Carlton, Clary, Constantine, Crist, Dawson, Diaz de la Portilla, Dockery, Fasano, Garcia, Geller, Haridopolos, Hill, Jones, King, Klein, Lawson, Lynn, Margolis, Miller, Peaden, Posey, Pruitt, Rich, Saunders, Sebesta, Siplin, Smith, Villalobos, Webster, Wilson, Wise

Nays—None

HB 871—A bill to be entitled An act relating to deposit of public funds; amending s. 17.57, F.S.; providing additional authorization for the Chief Financial Officer to deposit state funds; amending s. 218.415, F.S.; providing additional authorization for units of local government to deposit surplus local government funds; amending s. 280.03, F.S.; exempting certain public deposits from the security for public deposits requirements of chapter 280, F.S.; providing an effective date.

—was read the third time by title.

On motion by Senator Alexander, HB 871 was passed and certified to the House. The vote on passage was:

Yeas—39

Table with 3 columns: Alexander, Argenziano, Aronberg, Atwater, Baker, Bennett, Bullard, Campbell, Carlton, Clary, Constantine, Crist, Dawson, Diaz de la Portilla, Dockery, Fasano, Garcia, Geller, Haridopolos, Hill, Jones, King, Klein, Lawson, Lynn, Margolis, Miller, Peaden, Posey, Pruitt, Rich, Saunders, Sebesta, Siplin, Smith, Villalobos, Webster, Wilson, Wise

Nays—None

HB 989—A bill to be entitled An act relating to public marinas and boat ramps; amending s. 373.118, F.S.; directing the Department of Environmental Protection to adopt rules to authorize local governments to construct and maintain all facilities, including public marinas and boat ramps; exempting certain facilities from development-of-regional-impact review; providing for regulatory criteria; providing for the use of submerged lands; amending s. 403.813, F.S.; revising permit exemption requirements for floating vessel platforms or floating boat lifts; providing an effective date.

—as amended May 2 was read the third time by title.

RECONSIDERATION OF AMENDMENT

On motion by Senator Bennett, the rules were waived and the Senate reconsidered the vote by which Amendment 1 (842900) was adopted on May 2.

MOTION

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

Senators Bennett and Dockery offered the following amendment to **Amendment 1** which was moved by Senator Bennett and adopted by two-thirds vote:

Amendment 1A (161670)—On page 1, line 20 through page 2 line 11, delete those lines and insert:

(12) The department shall adopt by rule one or more general permits for local governments to construct, operate, and maintain public marina facilities, public mooring fields, public boat ramps, including associated courtesy docks, and associated parking facilities located in uplands. Such general permits adopted by rule shall include provisions to ensure compliance with part IV of this chapter, section 373.118(1), and the criteria necessary to include the general permits in a state programmatic general permit issued by the United States Army Corps of Engineers under s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq. A facility authorized under such general permits is exempt from review as a development of regional impact if the facility complies with the comprehensive plan of the applicable local government. Such facilities shall be consistent with the local government manatee protection plan required pursuant to ch. 370, F.S., and shall obtain Clean Marina Program status prior to opening for operation and maintain that status for the life of the facility. Marinas and mooring fields authorized under any such general permit shall not exceed an area of 50,000 square feet over wetlands and other surface waters. All facilities permitted under this section shall be constructed, maintained, and operated in perpetuity for the exclusive use of the general public. The department shall initiate the rulemaking process within 60 days after the effective date of this act.

Amendment 1 as amended was adopted by two-thirds vote.

On motion by Senator Bennett, **HB 989** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Baker	Geller	Rich
Bennett	Haridopolos	Saunders
Bullard	Hill	Sebesta
Campbell	Jones	Siplin
Carlton	King	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

CS for CS for CS for SB 360—A bill to be entitled An act relating to infrastructure planning and funding; amending s. 163.3164, F.S.; defining the term “financial feasibility”; amending s. 163.3177, F.S.; revising requirements for the capital improvements element of a comprehensive plan; requiring a schedule of capital improvements; providing a deadline for certain amendments; providing an exception; providing for sanctions; requiring incorporation of selected water supply projects in the comprehensive plan; authorizing planning for multijurisdictional water supply facilities; providing requirements for counties and municipalities with respect to the public school facilities element; requiring an interlocal agreement; providing for a waiver under certain circumstances; exempting certain municipalities from such requirements; requiring that the state land planning agency establish a schedule for adopting and updating the public school facilities element; encouraging local governments to include a community vision and an urban service boundary as a component of their comprehensive plans; prescribing taxing authority of local governments doing so; repealing s. 163.31776, F.S., relating to the public educational facilities element; amending s. 163.31777, F.S.; revising the requirements for the public schools interlocal agreement to conform to changes made by the act;

requiring the school board to provide certain information to the local government; amending s. 163.3180, F.S.; revising requirements for concurrency; providing for schools to be subject to concurrency requirements; requiring that an adequate water supply be available for new development; revising requirements for transportation facilities; requiring that the Department of Transportation be consulted regarding certain level-of-service standards; revising criteria and providing guidelines for transportation concurrency exception areas; requiring a local government to consider the transportation level-of-service standards of adjacent jurisdictions for certain roads; providing a process to monitor de minimis impacts; revising the requirements for a long-term transportation concurrency management system; providing for a long-term school concurrency management system; requiring that school concurrency be established on less than a districtwide basis within 5 years; providing certain exceptions; authorizing a local government to approve a development order if the developer executes a commitment to mitigate the impacts on public school facilities; providing for the adoption of a transportation concurrency management system by ordinance; providing requirements for proportionate fair-share mitigation; amending s. 163.3184, F.S.; prescribing authority of local governments to adopt plan amendments after adopting community vision and an urban service boundary; providing for small scale plan amendment review under certain circumstances; providing exemptions; amending s. 163.3191, F.S.; providing additional requirements for the evaluation and assessment of the comprehensive plan for counties and municipalities that do not have a public schools interlocal agreement; revising requirements for the evaluation and appraisal report; providing time limit for amendments relating to the report; amending s. 212.055, F.S.; revising permissible rates for charter county transit system surtax; revising methods for approving such a surtax; providing for a noncharter county to levy this surtax under certain circumstances; limiting the expenditure of the proceeds to a specified area under certain circumstances; revising methods for approving a local government infrastructure surtax; limiting the expenditure of the proceeds to a specified area under certain circumstances; revising a ceiling on rates of small county surtaxes; revising methods for approving a school capital outlay surtax; amending s. 206.41, F.S.; providing for annual adjustment of the ninth-cent fuel tax and local option fuel tax; amending s. 336.021, F.S.; revising methods for approving such a fuel tax; limiting authority of a county to impose the ninth-cent fuel tax without adopting a community vision; amending s. 336.025, F.S.; limiting authority of a county to impose the local option fuel tax without adopting a community vision; revising methods for approving such a fuel tax; amending s. 339.135, F.S., relating to tentative work programs of the Department of Transportation; conforming provisions to changes made by the act; requiring the Office of Program Policy Analysis and Government Accountability to perform a study of the boundaries of specified state entities; requiring a report to the Legislature; creating s. 163.3247, F.S.; providing a popular name; providing legislative findings and intent; creating the Century Commission for certain purposes; providing for appointment of commission members; providing for terms; providing for meetings and votes of members; requiring members to serve without compensation; providing for per diem and travel expenses; providing powers and duties of the commission; requiring the creation of a joint select committee of the Legislature; providing purposes; requiring the Secretary of Community Affairs to select an executive director of the commission; requiring the Department of Community Affairs to provide staff for the commission; providing for other agency staff support for the commission; creating s. 339.2819, F.S.; creating the Transportation Regional Incentive Program within the Department of Transportation; providing matching funds for projects meeting certain criteria; amending s. 337.107, F.S.; allowing the inclusion of right-of-way services in certain design-build contracts; amending s. 337.107, F.S., effective July 1, 2007; eliminating the inclusion of right-of-way services and as part of design-build contracts under certain circumstances; amending s. 337.11, F.S.; allowing the Department of Transportation to include right-of-way services and design and construction into a single contract; providing an exception; delaying construction activities in certain circumstances; amending s. 337.11, F.S., effective July 1, 2007; deleting language allowing right-of-way services and design and construction phases to be combined for certain projects; deleting an exception; amending s. 380.06, F.S.; providing an exception; amending s. 1013.33, F.S.; conforming provisions to changes made by the act; amending s. 206.46, F.S.; increasing the threshold for maximum debt service for transfers in the State Transportation Trust Fund; amending s. 339.08, F.S.; providing for expenditure of moneys in the State Transportation Trust Fund; amending s. 339.155, F.S.; providing for the development of regional transportation plans in Regional Transportation Areas; amending s. 339.175, F.S.; making conforming

changes to provisions of the act; amending s. 339.55, F.S.; providing for loans for certain projects from the state-funded infrastructure bank within the Department of Transportation; amending s. 1013.64, F.S.; providing for the expenditure of funds in the Public Education Capital Outlay and Debt Service Trust Fund; amending s. 1013.65, F.S.; providing funding for the Classrooms for Kids Program; amending s. 201.15, F.S.; providing for the expenditure of certain funds in the Land Acquisition Trust Fund; providing for appropriations for the 2005-2006 fiscal year on a nonrecurring basis for certain purposes; requiring the Department of Transportation to amend the tentative work program and budget for 2005-2006; prohibits reversion of certain funds; providing a declaration of important state interest; providing effective dates.

—as amended May 2 was read the third time by title.

Senators Webster and Haridopolos offered the following amendment which was moved by Senator Webster and adopted by two-thirds vote:

Amendment 1 (075900)(with title amendment)—On page 80, line 30 through page 83, line 28, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 3, lines 27-29, delete those lines and insert: amending s. 336.021, F.S.;

MOTION

On motion by Senator Bennett, the rules were waived to allow the following amendments to be considered:

Senator Bennett moved the following amendments which were adopted by two-thirds vote:

Amendment 2 (134890)(with title amendment)—On page 96, lines 11-24, delete those lines and insert:

Section 20. Paragraphs (l) and (m) are added to subsection (24) of section 380.06, Florida Statutes, to read:

380.06 Developments of regional impact.—

(24) STATUTORY EXEMPTIONS.—

(l) *Any proposed development within an urban service boundary established under s. 163.3177(14) is exempt from the provisions of this section if the local government having jurisdiction over the area where the development is proposed has adopted the urban service boundary and has entered into a binding agreement with adjacent jurisdictions and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).*

(m) *Any proposed development within a rural land stewardship area created under s. 163.3177(11)(d) is exempt from the provisions of this section if the local government that has adopted the rural land stewardship area has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).*

And the title is amended as follows:

On page 5, delete line 21 insert: 380.06, F.S.; providing exceptions; amending

Amendment 3 (371432)(with title amendment)—On page 55, between lines 7 and 8, insert:

(g) *The provisions of this subsection do not apply to a multiuse development of regional impact satisfying the requirements of subsection (12).*

And the title is amended as follows:

On page 2, delete line 31 and insert: fair-share mitigation; providing an exception; amending s. 163.3184,

Amendment 4 (051328)(with title amendment)—On page 129, between lines 23 and 24, insert:

Section 29. Paragraph (b) of subsection (1) of section 163.3174, Florida Statutes, is amended to read:

163.3174 Local planning agency.—

(1) The governing body of each local government, individually or in combination as provided in s. 163.3171, shall designate and by ordinance establish a “local planning agency,” unless the agency is otherwise established by law. Notwithstanding any special act to the contrary, all local planning agencies or equivalent agencies that first review rezoning and comprehensive plan amendments in each municipality and county shall include a representative of the school district appointed by the school board as a nonvoting member of the local planning agency or equivalent agency to attend those meetings at which the agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application. However, this subsection does not prevent the governing body of the local government from granting voting status to the school board member. The governing body may designate itself as the local planning agency pursuant to this subsection with the addition of a nonvoting school board representative. The governing body shall notify the state land planning agency of the establishment of its local planning agency. All local planning agencies shall provide opportunities for involvement by applicable community college boards, which may be accomplished by formal representation, membership on technical advisory committees, or other appropriate means. The local planning agency shall prepare the comprehensive plan or plan amendment after hearings to be held after public notice and shall make recommendations to the governing body regarding the adoption or amendment of the plan. The agency may be a local planning commission, the planning department of the local government, or other instrumentality, including a countywide planning entity established by special act or a council of local government officials created pursuant to s. 163.02, provided the composition of the council is fairly representative of all the governing bodies in the county or planning area; however: (b) In the case of chartered counties, the planning responsibility between the county and the several municipalities therein shall be as stipulated in the charter. *A municipality, located in a county that adopts a charter form of government on or after July 1, 2005, shall have the option to exercise exclusive land use planning authority. The exercise of this option shall require the municipality to adopt a resolution approving the exercise of exclusive land use planning authority. Exclusive land use planning authority includes platting, zoning, the adoption of comprehensive plan amendments in accordance with this chapter, and the issuance of development orders for the area under municipal jurisdiction.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 6, line 10, after the semicolon (;) insert: amending s. 163.3174, F.S.; allowing municipalities in charter counties the option to exercise exclusive land use planning authority under certain circumstances;

Amendment 5 (860608)(with title amendment)—On page 56, between lines 2 and 3, insert:

(18) *The concurrency provisions of this act shall not apply to development within:*

(a) *A development-of-regional-impact which was approved before July 1, 2005, or*

(b) *A proposed development-of-regional-impact which has an application for development approval determined to be sufficient pursuant to s. 380.06(10) before July 1, 2005.*

And the title is amended as follows:

On page 3, line 6, after the semicolon (;) insert: providing concurrency exemption for certain DRI projects;

Amendment 6 (433086)(with title amendment)—On page 133, between lines 22 and 23, insert:

Section 30. *In any challenge filed regarding the validity of an impact fee, the local government imposing the fee has the burden of proving, by a preponderance of the evidence, that the fee is directly proportional to the need created by the development for which the fee is assessed, that the fee is based upon the actual cost of any capital improvements for which the fee will be expended less all credits to which the fee payer is entitled, and that the capital expenditures paid for by the impact fee provide a direct benefit to the property upon which the fee is imposed.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 6, line 13, after the semicolon (;) insert: specifying the evidentiary standard a local government must meet when defending a challenge to an ordinance establishing an impact fee;

Amendment 7 (862538)(with title amendment)—On page 18, between lines 24 and 25, insert:

(11)

(d)1. The department, in cooperation with the Department of Agriculture and Consumer Services, the Department of Environmental Protection, water management districts, and regional planning councils, shall provide assistance to local governments in the implementation of this paragraph and rule 9J-5.006(5)(l), Florida Administrative Code. Implementation of those provisions shall include a process by which the department may authorize local governments to designate all or portions of lands classified in the future land use element as predominantly agricultural, rural, open, open-rural, or a substantively equivalent land use, as a rural land stewardship area within which planning and economic incentives are applied to encourage the implementation of innovative and flexible planning and development strategies and creative land use planning techniques, including those contained herein and in rule 9J-5.006(5)(l), Florida Administrative Code. Assistance may include, but is not limited to:

a. Assistance from the Department of Environmental Protection and water management districts in creating the geographic information systems land cover database and aerial photogrammetry needed to prepare for a rural land stewardship area;

b. Support for local government implementation of rural land stewardship concepts by providing information and assistance to local governments regarding land acquisition programs that may be used by the local government or landowners to leverage the protection of greater acreage and maximize the effectiveness of rural land stewardship areas; and

c. Expansion of the role of the Department of Community Affairs as a resource agency to facilitate establishment of rural land stewardship areas in smaller rural counties that do not have the staff or planning budgets to create a rural land stewardship area.

2. The department shall encourage participation by local governments of different sizes and rural characteristics in establishing and implementing rural land stewardship areas. It is the intent of the Legislature that rural land stewardship areas be used to further the following broad principles of rural sustainability: restoration and maintenance of the economic value of rural land; control of urban sprawl; identification and protection of ecosystems, habitats, and natural resources; promotion of rural economic activity; maintenance of the viability of Florida's agricultural economy; and protection of the character of rural areas of Florida. Rural land stewardship areas may be multicounty in order to encourage coordinated regional stewardship planning.

3. A local government, in conjunction with a regional planning council, a stakeholder organization of private land owners, or another local government, shall notify the department in writing of its intent to designate a rural land stewardship area. The written notification shall describe the basis for the designation, including the extent to which the

rural land stewardship area enhances rural land values, controls urban sprawl, provides necessary open space for agriculture and protection of the natural environment, promotes rural economic activity, and maintains rural character and the economic viability of agriculture.

4. A rural land stewardship area shall be not less than 10,000 acres and shall be located outside of municipalities and established urban growth boundaries, and shall be designated by plan amendment. The plan amendment designating a rural land stewardship area shall be subject to review by the Department of Community Affairs pursuant to s. 163.3184 and shall provide for the following:

a. Criteria for the designation of receiving areas within rural land stewardship areas in which innovative planning and development strategies may be applied. Criteria shall at a minimum provide for the following: adequacy of suitable land to accommodate development so as to avoid conflict with environmentally sensitive areas, resources, and habitats; compatibility between and transition from higher density uses to lower intensity rural uses; the establishment of receiving area service boundaries which provide for a separation between receiving areas and other land uses within the rural land stewardship area through limitations on the extension of services; and connection of receiving areas with the rest of the rural land stewardship area using rural design and rural road corridors.

b. Goals, objectives, and policies setting forth the innovative planning and development strategies to be applied within rural land stewardship areas pursuant to the provisions of this section.

c. A process for the implementation of innovative planning and development strategies within the rural land stewardship area, including those described in this subsection and rule 9J-5.006(5)(l), Florida Administrative Code, which provide for a functional mix of land uses, *including adequate available work force housing, including low, very-low and moderate income housing for the development anticipated in the receiving area* and which are applied through the adoption by the local government of zoning and land development regulations applicable to the rural land stewardship area.

d. A process which encourages visioning pursuant to s. 163.3167(11) to ensure that innovative planning and development strategies comply with the provisions of this section.

e. The control of sprawl through the use of innovative strategies and creative land use techniques consistent with the provisions of this subsection and rule 9J-5.006(5)(l), Florida Administrative Code.

5. A receiving area shall be designated by the adoption of a land development regulation. Prior to the designation of a receiving area, the local government shall provide the Department of Community Affairs a period of 30 days in which to review a proposed receiving area for consistency with the rural land stewardship area plan amendment and to provide comments to the local government. *At the time of designation of a stewardship receiving area, a listed species survey will be performed. If listed species occur on the receiving area site, the developer shall coordinate with each appropriate local, state, or federal agency to determine if adequate provisions have been made to protect those species in accordance with applicable regulations. In determining the adequacy of provisions for the protection of listed species and their habitats, the rural land stewardship area shall be considered as a whole, and the impacts to areas to be developed as receiving areas shall be considered together with the environmental benefits of areas protected as sending areas in fulfilling this criteria.*

6. Upon the adoption of a plan amendment creating a rural land stewardship area, the local government shall, by ordinance, *establish the methodology for the creation, conveyance, and use of transferrable rural land use credits, otherwise referred to as stewardship credits, the application of assign to the area a certain number of credits, to be known as "transferable rural land use credits,"* which shall not constitute a right to develop land, nor increase density of land, except as provided by this section. The total amount of transferable rural land use credits *within*

assigned to the rural land stewardship area must *enable the realization of the long-term vision and goals for* ~~correspond to~~ the 25-year or greater projected population of the rural land stewardship area. Transferable rural land use credits are subject to the following limitations:

a. Transferable rural land use credits may only exist within a rural land stewardship area.

b. Transferable rural land use credits may only be used on lands designated as receiving areas and then solely for the purpose of implementing innovative planning and development strategies and creative land use planning techniques adopted by the local government pursuant to this section.

c. Transferable rural land use credits assigned to a parcel of land within a rural land stewardship area shall cease to exist if the parcel of land is removed from the rural land stewardship area by plan amendment.

d. Neither the creation of the rural land stewardship area by plan amendment nor the assignment of transferable rural land use credits by the local government shall operate to displace the underlying density of land uses assigned to a parcel of land within the rural land stewardship area; however, if transferable rural land use credits are transferred from a parcel for use within a designated receiving area, the underlying density assigned to the parcel of land shall cease to exist.

e. The underlying density on each parcel of land located within a rural land stewardship area shall not be increased or decreased by the local government, except as a result of the conveyance or use of transferable rural land use credits, as long as the parcel remains within the rural land stewardship area.

f. Transferable rural land use credits shall cease to exist on a parcel of land where the underlying density assigned to the parcel of land is utilized.

g. An increase in the density of use on a parcel of land located within a designated receiving area may occur only through the assignment or use of transferable rural land use credits and shall not require a plan amendment.

h. A change in the density of land use on parcels located within receiving areas shall be specified in a development order which reflects the total number of transferable rural land use credits assigned to the parcel of land and the infrastructure and support services necessary to provide for a functional mix of land uses corresponding to the plan of development.

i. Land within a rural land stewardship area may be removed from the rural land stewardship area through a plan amendment.

j. Transferable rural land use credits may be assigned at different ratios of credits per acre according to the natural resource or other beneficial use characteristics of the land and according to the land use remaining following the transfer of credits, with the highest number of credits per acre assigned to the most environmentally valuable land *or, in locations where the retention of* ~~and a lesser number of credits to be assigned to~~ open space and agricultural land *is a priority, to such lands.*

k. The use or conveyance of transferable rural land use credits must be recorded in the public records of the county in which the property is located as a covenant or restrictive easement running with the land in favor of the county and either the Department of Environmental Protection, Department of Agriculture and Consumer Services, a water management district, or a recognized statewide land trust.

7. Owners of land within rural land stewardship areas should be provided incentives to enter into rural land stewardship agreements, pursuant to existing law and rules adopted thereto, with state agencies, water management districts, and local governments to achieve mutually agreed upon conservation objectives. Such incentives may include, but not be limited to, the following:

- a. Opportunity to accumulate transferable mitigation credits.
- b. Extended permit agreements.
- c. Opportunities for recreational leases and ecotourism.
- d. Payment for specified land management services on publicly owned land, or property under covenant or restricted easement in favor of a public entity.
- e. Option agreements for sale to public entities or private land conservation entities, in either fee or easement, upon achievement of conservation objectives.

8. The department shall report to the Legislature on an annual basis on the results of implementation of rural land stewardship areas authorized by the department, including successes and failures in achieving the intent of the Legislature as expressed in this paragraph.

(e) The Legislature finds that mixed-use, high-density development is appropriate for urban infill and redevelopment areas. Mixed-use projects accommodate a variety of uses, including residential and commercial, and usually at higher densities that promote pedestrian-friendly, sustainable communities. The Legislature recognizes that mixed-use, high-density development improves the quality of life for residents and businesses in urban areas. The Legislature finds that mixed-use, high-density redevelopment and infill benefits residents by creating a livable community with alternative modes of transportation. Furthermore, the Legislature finds that local zoning ordinances often discourage mixed-use, high-density development in areas that are appropriate for urban infill and redevelopment. The Legislature intends to discourage single-use zoning in urban areas which often leads to lower-density, land-intensive development outside an urban service area. Therefore, the Department of Community Affairs shall provide technical assistance to local governments in order to encourage mixed-use, high-density urban infill and redevelopment projects.

(f) The Legislature finds that a program for the transfer of development rights is a useful tool to preserve historic buildings and create public open spaces in urban areas. A program for the transfer of development rights allows the transfer of density credits from historic properties and public open spaces to areas designated for high-density development. The Legislature recognizes that high-density development is integral to the success of many urban infill and redevelopment projects. The Legislature intends to encourage high-density urban infill and redevelopment while preserving historic structures and open spaces. Therefore, the Department of Community Affairs shall provide technical assistance to local governments in order to promote the transfer of development rights within urban areas for high-density infill and redevelopment projects.

(g) The implementation of this subsection shall be subject to the provisions of this chapter, chapters 186 and 187, and applicable agency rules.

(h) The department may adopt rules necessary to implement the provisions of this subsection.

And the title is amended as follows:

On page 1, line 22, after the semicolon (;) insert: revising the requirements and criteria for establishing a rural land stewardship area; revising the requirements for designating a stewardship receiving area to address listed species; revising requirements for an ordinance adopting a plan amendment to create a rural land stewardship area;

Amendment 8 (894460)—On page 7, delete line 12 and insert: (c), and (h) of subsection (6), paragraph (d) of subsection (11), and subsection (12) of section

Amendment 9 (201164)—In title, on page 6, lines 12 and 13, delete those lines and insert: certain excise taxes on documents; providing for appropriations for the

Amendment 10 (421772)(with title amendment)—On page 28, between lines 10 and 11, insert:

(g) A local government that has adopted an urban service boundary after July 1, 2000 and before July 1, 2005, which substantially accomplishes the goals set forth in this subsection is not required to comply with paragraph (a) or subparagraph 1. of paragraph (b) in order to be eligible for small scale amendment review and the exemption from development-of-regional-impact review under s. 163.3184.

And the title is amended as follows:

On page 1, line 27, following the semicolon (;) insert: providing an exception;

Amendment 11 (731474)(with title amendment)—On page 129, between lines 23 and 24, insert:

Section 29. Section 166.31, Florida Statutes is created to read:

166.31 *Municipal surtax on documents; adoption; application of revenue.*—

(1) *The governing authority of a municipality may levy a surtax on documents as defined in s. 201.02, at a rate not exceeding 50 cents on each \$100, or fractional part thereof, of the consideration for the real estate or interest therein. The levy of the surtax must be pursuant to an ordinance enacted by a majority of the governing authority and approved by a majority of the electors of the municipality in a referendum on the surtax.*

(2) *The proceeds from the surtax and any interest accrued thereto must be expended for infrastructure improvements included in the capital improvements element of the comprehensive plan of the municipality. The proceeds from the surtax and any interest accrued thereto may be pledged for bond indebtedness. Surtax proceeds must be used to supplement, and may not supplant, existing infrastructure funding. In order to impose the surtax the municipality must use the following process:*

(a)1. *An advisory board must be created which shall make recommendations to the municipal governing authority regarding infrastructure projects to address the needs of the community. The municipal governing authority shall appoint members to the advisory board who represent the diversity of the community and must include individuals who have an interest in business, finance and accounting, economic development, the environment, transportation, education, public safety, and growth management.*

2. *A quorum shall consist of a majority of the advisory board members and is necessary to take any action regarding recommendations to the municipal governing authority. The municipal governing authority shall provide staff support to the advisory board. All meetings of the advisory board shall be open to the public.*

3. *Based on the estimated amount of the surtax collections, the advisory board must conduct at least two public workshops to develop a project list. Priority shall be given to projects that address existing infrastructure deficits that are identified in a long-term concurrency management system adopted by a municipality in accordance with s. 163.3177(3) or (9) or identified in the capital improvements element.*

(b) *After the advisory board submits the project list to the municipal governing authority, the list may be amended by the municipal governing authority. Public notice must be given of the intent to add additional projects or remove projects recommended by the advisory board. Action to amend the project list may be taken at the noticed public hearing. Once amended, the list may not be approved at the same meeting at which it was amended. Notice of the intent to adopt the amended project list must be given and the amended list must be approved at a subsequent public meeting that may not be held less than 14 days after the meeting at which the project list was amended.*

(c) *If the municipal governing authority does not amend the recommended project list, it may adopt the proposed project list at a public meeting following public notice of the intent to adopt the recommendations of the advisory board.*

(d) *The capital improvements schedule of the municipal comprehensive plan shall be updated to include the project list under s. 163.3177(3).*

(e) *Once the project list has been adopted, the municipal governing authority may give notice of the intent to adopt the surtax by ordinance and set a date for the referendum. The municipal governing authority shall conduct a public hearing to allow for public input on the proposed surtax. The ordinance enacting the surtax may not be adopted at the same meeting as that at which the project list is adopted.*

(f) *Once the surtax is enacted, the project list may be amended only in the following manner. The municipal governing authority must give notice of the intent to hold a public hearing to discuss adding or removing projects from the list. The municipal governing authority must take public testimony on the proposal. Action may not be taken at that meeting with regard to the proposal to amend the project list. Such action may be taken at a subsequent noticed public meeting that must be held not less than 14 days after the meeting at which the proposed changes to the project list were discussed.*

(g) *If the surtax is implemented, the advisory board shall monitor the expenditure of the surtax proceeds and shall hold semiannual meetings. The advisory board shall also monitor whether the municipality has maintained or increased the level of infrastructure expenditures over the previous 5 years.*

(h) *A municipality may not levy the surtax unless it has adopted a community vision and an urban service boundary under s. 163.3177(13) and (14).*

(3) *A surtax or increase or decrease in the rate of any surtax adopted under this section may not take effect on a date other than January 1. A surtax may not terminate on a date other than December 31.*

(4) *The governing authority of a municipality must notify the Department of Revenue within 10 days after final adoption by ordinance and referendum of an imposition, termination, or rate change of the surtax, but no later than November 16 before the effective date. The notice must specify the period during which the surtax will be in effect and the rate of the surtax and must include a copy of the ordinance and any other information that the department requires by rule. Failure to timely provide the information to the department shall result in the delay of the effective date for 1 year.*

(5) *The department shall pay to the governing authority of the municipality that levies the surtax all proceeds, penalties, and interest collected under this section less any costs of administration. Any administrative deductions by the department may not exceed 2 percent of the total annual collections.*

(6) *A municipality that levies the surtax shall include in the financial report required under s. 218.32 information showing the revenues and the expenses of the surtax proceeds for the fiscal year.*

And the title is amended as follows:

On page 6, line 10, after the semicolon (;) insert: creating s. 166.31, F.S.; authorizing the governing authority of a municipality to levy a surtax on documents pursuant to an ordinance approved by the electors of the municipality; requiring that the proceeds from the surtax be expended for infrastructure improvements; requiring that an advisory board be created to recommend infrastructure projects; providing requirements for developing, amending, and adopting a list of infrastructure projects; requiring notice and public hearings; requiring that the advisory board monitor the expenditure of the surtax proceeds; requiring the governing authority to notify the Department of Revenue of the imposition of the surtax; authorizing the department to retain a portion of the proceeds for administrative costs; requiring that a municipality levying the surtax file certain financial reports;

On motion by Senator Bennett, **CS for CS for CS for SB 360** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Mr. President	Dawson	Pruitt
Alexander	Dockery	Rich
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Baker	Hill	Siplin
Bennett	King	Smith
Bullard	Klein	Villalobos
Campbell	Lawson	Webster
Carlton	Lynn	Wilson
Clary	Margolis	Wise
Constantine	Miller	
Crist	Peaden	

Nays—5

Argenziano	Haridopolos	Posey
Diaz de la Portilla	Jones	

Vote after roll call:

Yea—Fasano

MOTION

On motion by Senator Bennett, the Senate requested the House pass **CS for CS for CS for SB 360** as passed by the Senate and in the event the House refused, a conference committee was requested.

CS for CS for CS for SB 444—A bill to be entitled An act relating to the development of water supplies; amending s. 373.019, F.S.; defining the terms “alternative water supply,” “capital costs,” and “multijurisdictional water supply entities”; amending s. 373.196, F.S.; encouraging cooperation in the development of water supplies; providing for alternative water supply development; encouraging municipalities, counties, and special districts to create regional water supply authorities; establishing the primary roles of the water management district in alternative water supply development; establishing the primary roles of local governments, regional water supply authorities, special districts, and publicly owned and privately owned water utilities in alternative water supply development; requiring the water management districts to detail the specific allocations to be used for alternative water supply development in their annual budget submission; amending s. 373.1961, F.S.; providing general powers and duties of the water management districts in water production; requiring that the water management districts include the amount needed to implement the water supply development projects in each annual budget; establishing general funding criteria for funding assistance to the state or water management districts; establishing economic incentives for alternative water supply development; creating a funding formula for the distribution of state funds to the water management districts for alternative water supply development; requiring that funding assistance for alternative water supply development be limited to a percentage of the total capital costs of an approved project; establishing a selection process and criteria; providing for cost recovery from the Public Service Commission; repealing paragraph (c) of subsection (4) of s. 373.0831, F.S.; relating to certain alternative water supply development projects; amending s. 373.1962, F.S.; clarifying that counties, municipalities, and special districts may execute interlocal agreements to create regional water supply authorities; amending s. 373.223, F.S.; establishing criteria for certain water supply entities to be presumed to have a use consistent with the public interest for requirements for consumptive use permitting; amending s. 373.236, F.S.; providing permits of at least 20 years for development of alternative water supplies under certain conditions; amending s. 373.459, F.S.; requiring that entities receiving state funding for implementation of surface water improvement and management projects provide a 50-percent match of cash or in-kind services; amending s. 373.0361, F.S.; providing for the development of regional water supply plans; providing requirements for the content of each plan; providing for an approval process for the plans; providing for annual updates; providing for local government use of the

plans; providing notification requirements for water management districts concerning findings within the plan; requiring identified entities to select alternative water supply projects and provide periodic status reports; changing the deadline for certain plan updates; amending s. 163.3177, F.S.; requiring a local government to incorporate alternative water supply projects into the comprehensive plan; requiring local governments to identify specific projects needed; providing for cooperative planning; amending s. 163.3180, F.S.; requiring adequate water supplies to serve new development; amending s. 163.3191, F.S.; requiring the evaluation and appraisal report to evaluate the degree to which the local government has implemented the work plan for regional water supply facilities, including development of alternative water supplies necessary to serve existing and new development; amending s. 403.067, F.S.; providing that initial allocation of allowable pollutant loads between point and nonpoint sources may be developed as part of a total maximum daily load; establishing criteria for establishing initial and detailed allocations to attain pollutant reductions; authorizing the Department of Environmental Protection to adopt phased total maximum daily loads that establish incremental total maximum daily loads under certain conditions; requiring the development of basin management action plans; requiring that basin management action plans integrate the appropriate management strategies to achieve the total maximum daily loads; requiring that the plans establish a schedule for implementing management strategies; requiring that a basin management action plan equitably allocate pollutant reductions to individual basins or to each identified point source or category of nonpoint sources; authorizing that plans may provide pollutant load reduction credits to dischargers that have implemented strategies to reduce pollutant loads prior to the development of the basin management action plan; requiring that the plan identify mechanisms by which potential future sources of pollution will be addressed; requiring that the department assure key stakeholder participation in the basin management action planning process; requiring that the department hold at least one public meeting to discuss and receive comments during the planning process; providing notice requirements; requiring that the department adopt all or part of a basin management action plan by secretarial order pursuant to ch. 120, F.S.; requiring that basin management action plans that alter that calculation or initial allocation of a total maximum daily load, the revised calculation, or initial allocation must be adopted by rule; requiring periodic evaluation of basin management action plans; requiring that revisions to plans be made by the department in cooperation with stakeholders; providing for basin plan revisions regarding nonpoint pollutant sources; requiring that adopted basin management action plans be included in subsequent NPDES permits or permit modifications; providing that implementation of a total maximum daily load or basin management action plan for holders of an NPDES municipal separate stormwater sewer system permit may be achieved through the use of best management practices; providing that basin management action plans do not relieve a discharger from the requirement to obtain, renew, or modify an NPDES permit or to abide by other requirements of the permit; requiring that plan management strategies be completed pursuant to the schedule set forth in the basin management action plan and providing that the implementation schedule may extend beyond the term of an NPDES permit; providing that management strategies and pollution reduction requirements in a basin management action plan for a specific pollutant of concern are not subject to a challenge under ch. 120, F.S., at the time they are incorporated, in identical form, into a subsequent NPDES permit or permit modification; requiring timely adoption and implementation of pollutant reduction actions for nonagricultural pollutant sources not subject to NPDES permitting but regulated pursuant to other state, regional, or local regulatory programs; requiring timely implementation of best management practices for nonpoint pollutant source dischargers not subject to permitting at the time a basin management action plan is adopted; providing for presumption of compliance under certain circumstances; providing for enforcement action by the department or a water management district; requiring that a landowner, discharger, or other responsible person that is implementing management strategies specified in an adopted basin management action plan will not be required by permit, enforcement action, or otherwise to implement additional management strategies to reduce pollutant loads; providing that the authority of the department to amend a

basin management plan is not limited; requiring that the department verify at representative sites the effectiveness of interim measures, best management practices, and other measures adopted by rule; requiring that the department use its best professional judgment in making initial verifications that best management practices are not effective; requiring notice to the appropriate water management district and the Department of Agriculture and Consumer Services under certain conditions; establishing a presumption of compliance for implementation of practices initially verified to be effective or verified to be effective at representative sites; limiting the institution of proceedings by the department against the owner of a source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants; requiring the Department of Agriculture and Consumer Services to institute a reevaluation of best management practices or other measures where water quality problems are detected or predicted during the development or amendment of a basin management action plan; providing for rule revisions; providing the department with rulemaking authority; requiring that a report be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing recommendations on rules for pollutant trading prior to the adoption of those rules; requiring that recommendations be developed in cooperation with a technical advisory committee containing experts in pollutant trading and representatives of potentially affected parties; deleting a requirement that no pollutant trading program shall become effective prior to review and ratification by the Legislature; amending ss. 373.4595 and 570.085, F.S.; correcting cross-references; amending s. 403.885, F.S.; revising requirements relating to the department's grant program for water quality improvement and water restoration project grants; eliminating grants for water quality improvement, water management, and drinking water projects; authorizing grants for wastewater management; creating additional criteria for funding storm water grants; requiring local matching funds; providing an exception from matching fund requirements for financially disadvantaged small local governments; creating s. 403.890, F.S.; establishing the Water Protection and Sustainability Program; establishing a funding formula for the distribution of revenues; providing for legislative review; providing an effective date.

—as amended May 2 was read the third time by title.

On motion by Senator Dockery, **CS for CS for CS for SB 444** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Baker	Geller	Rich
Bennett	Haridopolos	Sebesta
Bullard	Hill	Siplin
Campbell	Jones	Smith
Carlton	King	Villalobos
Clary	Klein	Webster
Constantine	Lawson	Wilson
Crist	Lynn	Wise
Dawson	Margolis	

Nays—1

Saunders

Vote after roll call:

Nay to Yea—Saunders

CS for CS for SB 332—A bill to be entitled An act relating to trust funds; creating s. 403.891, F.S.; creating the Water Protection and Sustainability Trust Fund within the Department of Environmental Protection; providing for sources of funds and purposes; providing for an annual carryforward of funds; providing for future legislative review and

termination or re-creation of the trust fund; providing a contingent effective date.

—was read the third time by title.

On motion by Senator Dockery, **CS for CS for SB 332** was passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Baker	Geller	Rich
Bennett	Haridopolos	Saunders
Bullard	Hill	Sebesta
Campbell	Jones	Siplin
Carlton	King	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

HB 1089—A bill to be entitled An act relating to independent postsecondary education; amending s. 1005.31, F.S.; providing requirements of independent postsecondary educational institutions licensed by the Commission for Independent Education; providing requirements for an investigative process for licensure of applicants; revising provisions relating to applicant status; providing for inspections; creating s. 1005.375, F.S.; specifying acts that constitute violations and providing penalties therefor; amending s. 1005.38, F.S.; providing requirements for investigation of a suspected violation of the chapter or rules; providing additional grounds for disciplinary actions; providing for a final order to dismiss a complaint or impose specified penalties; providing for imposition and collection of an assessment relating to investigation and prosecution of a case; providing for an emergency suspension or restriction order; creating s. 1005.385, F.S.; requiring the commission to adopt rules relating to issuance of a citation to an institution and violations for which a citation may be issued; specifying requirements for issuance; amending s. 1010.83, F.S.; providing for the inclusion in the Institutional Assessment Trust Fund of fees and fines imposed on institutions; specifying separate accounts; revising uses of funds in the trust fund; providing an effective date.

—was read the third time by title.

On motion by Senator Wise, **HB 1089** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Baker	Geller	Rich
Bennett	Haridopolos	Saunders
Bullard	Hill	Sebesta
Campbell	Jones	Siplin
Carlton	King	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

HB 1091—A bill to be entitled An act relating to public records and public meetings exemptions for investigations by the Commission for

Independent Education; amending s. 1005.38, F.S.; creating an exemption from public records requirements for investigatory records, including minutes and findings of an exempt probable cause panel meeting, relating to suspected violations of ch. 1005, F.S., or commission rules; creating an exemption from public meetings requirements for certain portions of meetings of a probable cause panel; providing for limited duration of the exemptions; providing for future review and repeal; providing a statement of public necessity; providing a contingent effective date.

—was read the third time by title.

On motion by Senator Wise, **HB 1091** was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Baker	Geller	Rich
Bennett	Haridopolos	Saunders
Bullard	Hill	Sebesta
Campbell	Jones	Siplin
Carlton	King	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

HB 1395—A bill to be entitled An act relating to beach safety; amending s. 380.276, F.S.; revising the provisions for the placement of uniform warning and safety flags at public beaches; prohibiting the display of flags not specifically developed by the Department of Environmental Protection; revising liability provisions; authorizing the department to develop and distribute information and materials related to beach safety; providing an effective date.

—was read the third time by title.

On motion by Senator Clary, **HB 1395** was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Diaz de la Portilla	Peaden
Argenziano	Dockery	Posey
Aronberg	Fasano	Pruitt
Atwater	Garcia	Rich
Baker	Geller	Saunders
Bennett	Haridopolos	Sebesta
Bullard	Hill	Siplin
Campbell	Jones	Smith
Carlton	King	Villalobos
Clary	Klein	Webster
Constantine	Lawson	Wilson
Crist	Margolis	Wise
Dawson	Miller	

Nays—None

Vote after roll call:

Yea—Lynn

HB 1559—A bill to be entitled An act relating to respite care; creating s. 400.4071, F.S.; creating an intergenerational respite care assisted living facility pilot program; providing legislative intent; providing duties of the Agency for Health Care Administration with respect to the

program; providing requirements and standards for the program; providing for rules; requiring a report to the Legislature; providing an effective date.

—was read the third time by title.

On motion by Senator Wilson, **HB 1559** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Baker	Geller	Rich
Bennett	Haridopolos	Saunders
Bullard	Hill	Sebesta
Campbell	Jones	Siplin
Carlton	King	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Consideration of **CS for CS for SB 2542** was deferred.

HB 1651—A bill to be entitled An act relating to chiropractic education; amending s. 400.9905, F.S.; providing that pt. XIII of ch. 400, F.S., the Health Care Clinic Act, does not apply to clinical facilities affiliated with certain chiropractic colleges; amending s. 460.402, F.S.; providing an exception to regulation for chiropractic students participating in chiropractic college clinical internships; amending s. 460.403, F.S.; defining “chiropractic college clinical internship”; providing an effective date.

—was read the third time by title.

On motion by Senator Geller, **HB 1651** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Baker	Geller	Rich
Bennett	Haridopolos	Saunders
Bullard	Hill	Sebesta
Campbell	Jones	Siplin
Carlton	King	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

HB 1715—A bill to be entitled An act relating to domestic security; amending s. 943.03101, F.S.; providing that counter-terrorism coordination must be conducted in accordance with the state comprehensive emergency management plan; amending ss. 943.03 and 943.0311, F.S.; changing the title of the position “Chief of Domestic Security Initiatives” to “Chief of Domestic Security”; revising references to conform; clarifying duties of the Chief of Domestic Security; revising provisions relating to required security assessments of buildings, facilities, and structures owned or leased by state agencies, state universities, and community colleges; requiring certain assessments to be provided to the Chief of Domestic Security within a specified timeframe; revising requirements

with respect to a report by the Chief of Domestic Security regarding suggestions for security enhancements; revising provisions with respect to the recommendation, development, and implementation of best practices for the safety and security of specified buildings, facilities, and structures; amending s. 943.0312, F.S.; revising provisions with respect to regional domestic security task forces; conforming language; providing an additional duty of the task forces; revising the organization and membership of the task forces; providing editorial changes; requiring the task forces to make specified recommendations to the Domestic Security Oversight Council; creating s. 943.0313, F.S.; creating the Domestic Security Oversight Council; providing purpose of the council; providing for membership of the council; providing for organization, meetings, staffing, and duties of the council; providing for the establishment of an executive committee and membership thereof; providing duties of the executive committee; requiring annual reports to the Governor and Legislature; providing that the council is a criminal justice agency for the purposes of ch. 119, F.S.; amending s. 381.00315, F.S., to conform; providing an effective date.

—was read the third time by title.

On motion by Senator Diaz de la Portilla, **HB 1715** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Baker	Geller	Rich
Bennett	Haridopolos	Saunders
Bullard	Hill	Sebesta
Campbell	Jones	Siplin
Carlton	King	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

HB 1801—A bill to be entitled An act relating to public meetings and public records; creating s. 943.0314, F.S.; providing an exemption from public meetings requirements for meetings or portions of meetings of the Domestic Security Oversight Council at which the council hears or discusses active criminal investigative information or active criminal intelligence information; providing conditions precedent to the closing of such meeting or portion thereof; providing an exemption from public records requirements for an audio or video recording of a closed meeting of the council and any minutes and notes generated during the closed meeting until the criminal investigative information or criminal intelligence information heard or discussed therein ceases to be active; specifying those persons who are authorized to attend a closed meeting of the council; providing for review and repeal; providing a statement of public necessity; providing a contingent effective date.

—was read the third time by title.

On motion by Senator Diaz de la Portilla, **HB 1801** was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—39

Alexander	Campbell	Dockery
Argenziano	Carlton	Fasano
Aronberg	Clary	Garcia
Atwater	Constantine	Geller
Baker	Crist	Haridopolos
Bennett	Dawson	Hill
Bullard	Diaz de la Portilla	Jones

King	Peaden	Siplin
Klein	Posey	Smith
Lawson	Pruitt	Villalobos
Lynn	Rich	Webster
Margolis	Saunders	Wilson
Miller	Sebesta	Wise

Nays—None

HB 1921—A bill to be entitled An act relating to a review under the Open Government Sunset Review Act; amending s. 741.3165, F.S.; expanding the exemption from public records requirements for confidential or exempt information obtained by a domestic violence fatality review team to include information that identifies a victim of domestic violence or the children of a victim; expanding the exemption from public meetings requirements to exempt those portions of meetings at which confidential or exempt information is discussed; providing for review and repeal; providing a statement of public necessity; removing unnecessary language; making clarifying changes; providing an effective date.

—was read the third time by title.

On motion by Senator Campbell, **HB 1921** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Baker	Geller	Rich
Bennett	Haridopolos	Saunders
Bullard	Hill	Sebesta
Campbell	Jones	Siplin
Carlton	King	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Consideration of **CS for CS for SB 1110** was deferred.

The Senate resumed consideration of—

HB 1659—A bill to be entitled A bill to be entitled An act relating to parental notification of termination of a minor’s pregnancy; amending s. 390.01115, F.S.; providing a popular name; providing definitions; providing that actual notice shall be given by the physician who will perform the termination of pregnancy procedure; providing for written notice in certain circumstances; specifying information required to be included in notices; providing circumstances in which prior notice is not required; providing that violation of the notice requirements by physicians shall be considered medical malpractice; providing procedures for judicial waiver of notice; providing circumstances under which certain circuit courts may grant a petition for a judicial waiver of notice; providing for the appointment of a guardian ad litem and counsel; providing time requirements for court proceedings; requiring written transcripts of certain proceedings; providing for confidentiality; providing for the availability of an appeal under certain circumstances; waiving filing fees and court costs for certain minors; relieving counties of certain counsel costs; requiring the Supreme Court to ensure certain proceedings are conducted expeditiously and lawfully; providing an effective date.

—which was previously considered and amended April 27.

RECONSIDERATION OF AMENDMENT

On motion by Senator Dockery, the rules were waived and the Senate reconsidered the vote by which **Amendment 1 (245870)** was adopted on April 27.

MOTION

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

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

Amendment 1A (480528)—On page 1, line 25 through page 2, line 1, delete those lines and insert:

(a) *“Actual notice” means notice that is given directly, in person or by telephone, to a parent or legal guardian of a minor, by a physician, at least 48 hours before the inducement or performance of a termination of pregnancy, and documented in the minor’s files.*

(b) *“Child abuse” has the same meaning as s. 39.0015(3).*

(c) *“Constructive notice” means notice that is given in writing, signed by the physician, and mailed at least 72 hours before the inducement or performance of the termination of pregnancy, to the last known address of the parent or legal guardian of the minor, with overnight delivery guaranteed, return receipt requested, delivery restricted to the parent or legal guardian, and signature confirmation of receipt.*

On motion by Senator Dockery, further consideration of **HB 1659** with pending **Amendment 1 (245870)** and pending **Amendment 1A (480528)** was deferred.

MOTION

On motion by Senator Posey, the Senate recalled—

HB 1377—A bill to be entitled An act relating to ethics; amending s. 104.31, F.S.; prohibiting state or political subdivision employees from participating in political campaigns during on-duty hours or certain other hours; amending s. 112.313, F.S.; applying the prohibition on disclosure or use of certain information to former public officers, public employees, and local government attorneys; providing an exception to such prohibition; revising postemployment restrictions to apply to other-personal-services temporary employees; exempting certain agency employees from postemployment restrictions; providing for certain disclosure statements to be filed with the Commission on Ethics instead of the Department of State; revising a prohibition on lobbying by former local officers to preclude representation before the government body or agency an officer has served; providing applicability; amending s. 112.3144, F.S.; providing for reporting of assets held by joint tenancy, joint tenancy with right of survivorship, and partnership and reporting of certain liabilities; amending s. 112.3145, F.S.; requiring the commission to send delinquency notices with return receipt requested; amending s. 112.3147, F.S.; requiring an attestation with respect to information provided on required forms; deleting a redundant provision; amending s. 112.3148, F.S.; requiring gift disclosure forms of individuals who left office or employment during the calendar year to be filed by a date certain; allowing quarterly gift disclosure forms to be considered timely filed if postmarked on or before the due date; amending s. 112.3149, F.S.; requiring gift disclosure statements of individuals who left office or employment during the calendar year to be filed by a date certain; amending s. 112.317, F.S.; authorizing the commission to recommend restitution be paid to the agency damaged by the violation or to the General Revenue Fund; authorizing the Attorney General to collect certain costs and fees incurred in bringing certain actions; deleting a provision rendering a breach of confidentiality of an ethics proceeding a misdemeanor; amending s. 112.3185, F.S.; providing for certain former agency employees to be employed by or have a contractual relationship with certain business entities; prohibiting a former agency employee from representing a client before the employee’s former agency in certain matters; amending s. 112.3215, F.S.; revising the commission’s

rulemaking authority regarding appeals of certain fines; providing for automatic suspended registration for lobbyists who fail to timely pay a certain fine; providing an exception; requiring the commission to provide written notice to any lobbyist whose registration is automatically suspended; amending s. 112.322, F.S.; revising provisions relating to payment of witnesses; amending s. 914.21, F.S.; revising definitions; providing an effective date.

—for further consideration.

RECONSIDERATION OF AMENDMENT

On motion by Senator Posey, the Senate reconsidered the vote by which **Amendment 1 (305140)** was adopted this day.

MOTION

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

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

Amendment 1A (025810)(with title amendment)—On page 1, lines 23-28, delete those lines and insert:

(2) *An employee of the state or any political subdivision may not participate in any political campaign for an elective office while on duty.*

And the title is amended as follows:

On page 24, delete line 7 and insert: political campaign;

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **HB 1377** as amended was placed on the calendar of Bills on Third Reading.

MOTIONS

On motion by Senator Pruitt, by two-thirds vote all bills remaining on the Special Order Calendar this day were placed on the Special Order Calendar for Thursday, May 5.

On motion by Senator Pruitt, a deadline of one hour after the availability of engrossed bills was set for filing amendments to Bills on Third Reading to be considered Thursday, May 5.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Wednesday, May 4, 2005: SB 342, CS for SB 1730, CS for CS for SB 486, CS for SB 830, SB 2572, CS for SB 664, SB 1450, CS for SCR 2024, CS for SB 2348, CS for SB 696, CS for SB 1458, CS for SB 2032, CS for CS for CS for SB 858, HB 1907, CS for CS for SB 1912, CS for SB 2070, CS for CS for CS for SB 1062, CS for SB 1624, CS for CS for SB’s 1944 and 2008, CS for SB 1372, CS for SB 1542, CS for CS for SB 1442, CS for SB 2152, CS for CS for SB 2086, CS for SB 2510, CS for SB 676, CS for SB 1704, CS for SB 2352, CS for CS for SB 2502, CS for CS for CS for SB 454, CS for SB 1780, CS for CS for SB 1978, CS for SB 1184, SB 2614, SB 1820, SB 870, CS for CS for SB 1660, SB 1746, CS for SB 1830, CS for CS for SB 330, CS for CS for SB 2254, CS for CS for SB 1016, CS for CS for SB 526, CS for CS for SB 698, CS for CS for SB 1456, CS for CS for SB 1716, CS for CS for CS for SB 460, CS for CS for SB 2480, CS for CS for CS for SB 1174, CS for CS for SJR 2090

Respectfully submitted,
Ken Pruitt, Chair

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

Senate Resolutions 2780-2786—Not referenced.

By Senator Campbell—

SB 2788—A bill to be entitled An act relating to the North Lauderdale Water Control District, Broward County; amending, reenacting, repealing, and codifying chapters 63-661, 82-273, 85-385, 94-428, and 97-370, Laws of Florida, relating to the North Lauderdale Water Control District; revising district boundaries; revising the powers of the district to provide that the district may borrow money at a rate not exceeding that which is provided by law; providing that the members of the board of supervisors shall be the “city commission,” rather than the “city council,” of the City of North Lauderdale and that a board chair and vice chair shall be elected at each annual meeting and as necessary to fill vacancies; providing meeting notice requirements and requiring that meetings be held at a public place; providing that the City Clerk of the City of North Lauderdale shall serve as the district secretary; providing for reimbursement of supervisors for travel expenses pursuant to s. 112.061, F.S.; providing that the interest rate on bonds issued by the board not exceed the maximum rate allowed by law; providing that the interest rates on tax anticipation notes issued by the board shall not exceed the maximum rate allowed by law; deleting a provision relating to payment of taxes not authorized in advance; providing for the use of non-ad valorem assessments; updating references to ch. 298, F.S.; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

RETURNING MESSAGES—FINAL ACTION

The Honorable Tom Lee, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 60, SB 114, CS for CS for SB 202, SB 288, CS for CS for SB 328, CS for SB 474, SB 574, CS for CS for SB 620, CS for CS for SB 652, CS for SB 660, SB 730, CS for SB 786, CS for SB 822, CS for CS for SB 874, SB 878, CS for CS for CS for SB 1010, SB 1020, CS for CS for SB 1090, CS for CS for SB 1114, CS for SB 1118, SB 1122, CS for SB 1194, CS for SB 1244, CS for SB 1300, CS for SB 1312, CS for SB 1318, CS for SB 1330, CS for CS for SB 1348, CS for SB 1354, CS for CS for CS for SB 1366, CS for SB 1432, CS for SB 1436, CS for SB 1438, CS for CS for SB 1446, CS for SB 1454, SB 1460, SB 1502, CS for SB 1602,

CS for CS for SB 1650, SB 1678, CS for SB 1722, CS for SB 1868, CS for SB 2006, CS for SB 2146, SB 2268, CS for SB 2278, SB 2452, CS for CS for SB 2498 and CS for CS for SB 2550; has passed CS for SB 1098 by the required constitutional two-thirds vote of the members voting; has passed CS for SB 2196 by the required constitutional three-fifths vote of the membership of the House.

John B. Phelps, Clerk

The bills contained in the foregoing messages were ordered enrolled.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 3 was corrected and approved.

CO-INTRODUCERS

Senators Argenziano—SB 2132; Crist—CS for CS for CS for SB 2, CS for SB 62, CS for SB 72, CS for SB 74, CS for CS for SB 126, CS for SB 476, CS for SB 482, CS for SB 494, SB 538, CS for SB 552, CS for CS for SB 572, SB 630, CS for CS for SB 632, CS for SB 656, CS for SB 664, CS for SB 748, SB 752, CS for CS for SB 774, CS for CS for SB 778, SB 784, CS for SB 890, CS for SB 970, CS for CS for CS for SB 1026, CS for SB 1028, CS for SB 1082, CS for CS for SB 1090, CS for SB 1096, CS for SB 1262, CS for SB 1294, CS for CS for CS for SB 1314, SB 1448, CS for SB 1458, CS for SB 1466, SB 1678, CS for SB 1722, CS for CS for CS for SB 1770, CS for SB 1830, CS for CS for SB 1850, CS for CS for SB 1872, CS for SB 1884, CS for CS for SB 1910, CS for SB 2190, CS for SB 2220, CS for SB 2378, CS for SB 2638; Klein—CS for CS for CS for SB 210, SB 308, CS for SB 1604; Posey—SB 162, SB 166, CS for SB 494, CS for SB 660, CS for CS for CS for SB 750, CS for SB 864, SB 878, SB 1240, SB 1242, CS for CS for SB 1316, CS for CS for SB 1456, SB 1460, SB 1512, CS for CS for SB 1526, CS for SB 1702, CS for SB 1854, CS for SB 1908, CS for SB 2056, CS for SB 2074, CS for SB 2156, CS for SB 2184, SB 2288, CS for SB 2332, CS for SB 2364, CS for SB 2516; Rich—CS for CS for SB 1716; Siplin—CS for SB 1862; Smith—SB 2132; Wilson—CS for SB 124, CS for CS for SB 126, CS for SB 284, CS for SB 546, CS for CS for SB 620, CS for SB 658, CS for SB 1082, CS for SB 1096, CS for SB 1098, CS for SB 1498, SB 1502, CS for SB 1702, CS for SB 1868, CS for SB 1926, CS for CS for SB 1968, CS for SB 2050, CS for SB 2432

RECESS

On motion by Senator Pruitt, the Senate recessed at 8:27 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 10:00 a.m., Thursday, May 5 or upon call of the President.